
Analysis of Impediment to Fair Housing Milwaukee County, Wisconsin 2008

Author of the Report

This report was produced by the Metropolitan Milwaukee Fair Housing Council, Inc. (MMFHC). Kori Schneider-Peragine, Carla Wertheim and Erika Sanders are the primary staff responsible for this report's contents.

MMFHC was established in October 1977 as a private, non-profit organization dedicated to promote fair housing throughout the State of Wisconsin by combating illegal housing discrimination and by creating and maintaining racially and economically integrated housing patterns. These goals are accomplished through four major program components: Enforcement, Outreach and Education, Training and Technical Assistance, and Community and Economic Development. MMFHC's Enforcement Program provides direct assistance to persons alleging violations of federal, state and local fair housing laws. Institutional forms of housing discrimination are also uncovered through systemic investigations conducted by the Council. MMFHC's Education and Outreach Program provides information about fair housing law to housing consumers, social service agencies, religious, civic and neighborhood groups, community-based organizations and the general public. MMFHC's Training and Technical Assistance program component provides fair housing training to housing providers as well as technical assistance and professional support to government agencies, civil rights organizations, social service agencies and members of the housing industry. MMFHC's Community and Economic Development Program includes activities addressing affordable housing, land use, housing policy analysis, fair lending services and MMFHC's Strategies To Overcome Predatory Practices (STOPP), its anti-predatory lending program.

MMFHC provides services throughout the State of Wisconsin through three offices. Its main office is located in the City of Milwaukee and satellite offices of the organization are located in Madison (Fair Housing Center of Greater Madison) and Appleton (Fair Housing Center of Northeast Wisconsin).

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Executive Summary

This report, *Milwaukee County: Analysis of Impediments to Fair Housing 2008*, should be used as a planning tool to ensure equal housing opportunities for all persons in Milwaukee County.

The report has three main components: an analysis of demographic and economic characteristics in relation to their impact on fair housing; a discussion of fair housing impediments; and recommendations designed to dismantle the impediments identified.

Demographic and Economic Characteristics

An analysis of the demographic and economic characteristics in Milwaukee County identifies trends that currently have or will have an impact on the housing market and impediments to fair housing choice. Some items of note include:

- Metropolitan Milwaukee is highly segregated, and has the lowest minority suburbanization rate in the nation.
- The racial and ethnic minority population increased by 140% in County municipalities between 1990 and 2000 (not including the City of Milwaukee), yet only comprises approximately 7% of the County's total population.
- Minority households tend to be larger than white households; as a result, they are more likely to require larger housing units.
- Nearly 25.1% of Milwaukee County's Housing Planning Area (HPA) population has a disability, including physical disabilities, mental disabilities, mobility disabilities and "other". (The HPA covers all parts of the County except the City of Milwaukee.)
- In 2000, 16.3% of the County's population was 60 and older, and by 2030 that proportion will likely reach 23.5%, an increase of over 88,000 persons.

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- Homeownership rates for all Milwaukee County racial and ethnic groups decreased from 65% in 1990 to 62% in 2000. Homeownership rate disparities between whites and other racial and ethnic groups continue to widen.
 - □□ Although racial disparities in unemployment rates exist, racial disparities are not nearly as stark as those that exist between those living in the City of Milwaukee compared with those living in the rest of the County.
 - All of the net job growth in the metropolitan area has occurred outside the City of Milwaukee, mostly in areas with limited or no access to public transportation, which has problematic implications in light of the fact that 32.3% of Milwaukee's black households do not own cars.
 - The metropolitan Milwaukee labor market continues to suffer from a structural "spatial mismatch" between pockets of high unemployment (the City of Milwaukee) and locations of job growth (mainly, the suburbs).

Fair Housing Impediments

An *impediment* to fair housing is anything that may hinder or prevent a person from having equal access to housing because of their membership in a federal or State of Wisconsin protected class.¹ Impediments may take the form of a city or other governmental entity's policy, practice or procedure; housing industry practices; and other societal factors that may contribute to impeding a person or family from obtaining housing. Impediments in the report fall into one or more of three categories: Milwaukee County impediments, state and federal impediments, and private market impediments. Though Milwaukee County may have limited ability to address impediments in the private market and at the state and federal levels, this report would be incomplete without listing them. Further, Milwaukee County has a responsibility to do whatever is in its power to work toward dismantling these impediments, even if its ability to do so is incomplete.

¹ Protected classes listed in the Federal Fair Housing Act and the Wisconsin Open Housing Law include race, religion, color, national origin, sex, disability, familial status, marital status, sexual orientation, ancestry, age and lawful source of income.

Milwaukee County Impediments

Impediment #1: Inadequate Fair Housing Ordinances

Eighteen local communities and Milwaukee County maintain fair housing ordinances. Within these 19 ordinances, there is great divergence in the protections, remedies and enforcement mechanisms available to victims of illegal housing discrimination. Additionally, many of these laws, as currently written, are exceedingly limited in their capacity to address housing discrimination and are, thus, a major impediment to fair housing throughout Milwaukee County.

Problematic issues include: lack of consistency amongst the ordinances; failure of ordinances to provide comprehensive protection; vague or restrictive definitions of persons protected under some of the ordinances; abbreviated and inadequate actions prohibited under most of the ordinances; limited protection for persons with disabilities in most of the ordinances; ordinances that do not prohibit discrimination in all areas of the housing market; illegal prohibition of testing in two communities; limited or unclear enforcement powers in the ordinances; negligible or unspecified penalties for violations of the law in many of the ordinances; no compensatory or injunctive relief for victims of illegal housing discrimination under most of the ordinances; overly restrictive statutes of limitations under some ordinances; and inadequate training of local government staffs regarding fair housing ordinances.

Impediment #2 Absence of a Commitment to Enforce the Requirement to Affirmatively Further Fair Housing by Milwaukee County's Community Development Block Grant Program

Each of the County's participating municipalities must demonstrate their efforts to affirmatively further fair housing in exchange for federal block grant dollars. The 2007 County report to HUD regarding these fair housing efforts includes activities that accomplish very little in the way addressing the serious issues of housing discrimination and segregation in Milwaukee County.

Impediment #3: Lack of Housing Units Accessible to Persons with Disabilities

Persons with disabilities in the County are more in need of affordable and accessible housing than those without disabilities, and these housing needs are currently unmet. Given the County's aging population and the prevalence of older, inaccessible housing stock, this impediment will only grow more serious without County intervention.

Impediment #4: Inadequate Affordable Housing Supply

Within Milwaukee County, affordable housing opportunities are heavily concentrated in the City of Milwaukee. Income disparities based on race, ethnicity and disability combined with the concentration of affordable housing units contributes to residential segregation. Further, numerous barriers to the development of affordable housing in the HPA exacerbate this problem.

Impediment #5: Inadequacies within the Milwaukee County Rent Assistance Programs

Many of the impediments within the County Rent Assistance Program are closely linked to federal policy, but many of these impediments could be addressed with County policy action. The impediments include: lack of Housing Choice Section 8 Rent Assistance Vouchers; segregation of subsidized housing; inadequate staffing for the Housing Choice Voucher program; and exclusionary public housing or Section 8 Rent Assistance Voucher programs elsewhere in the County.

Impediment #6: Milwaukee County Lacks Monitoring of Mortgage Lenders and the Community Reinvestment Act (CRA)

Currently the County has no official mechanism to monitor banks' performances in serving low income and minority communities.

Impediment #7: Zoning as an Impediment: Group Homes, Community Based Residential Facilities, and Community Living Arrangements

Restrictive zoning poses an impediment to the housing opportunities of people with disabilities. At the time this report was written, no Milwaukee County municipalities were found to be actively enforcing restrictive zoning ordinances, with one exception: critics of a recently-created City of Glendale ordinance believe Glendale has an overly restrictive group home ordinance in order to impede the location of group homes within that community.

Impediment #8: Illegal Actions of Milwaukee County Municipalities – Fair Housing Litigation

Many municipalities are unaware of their obligations and potential liabilities under local, state and federal fair housing laws, especially in the planning, siting and construction of multifamily rental housing. Four fair housing lawsuits against Milwaukee County municipalities have been filed in the last decade, demonstrating this problem. (These cases are described in greater detail later in this report.)

Impediment #9: Inadequacies of the Milwaukee County Transit System

An inability to live near where you work places demands upon transportation and transit systems in the short term, and over time can influence where housing is or is not developed and who has access to certain jobs. Unfortunately, current Milwaukee County Transit System lines do not correspond with projected job growth in Milwaukee County or the region. Many City of Milwaukee households do not own their own cars (for instance, as noted above, nearly one-third of Milwaukee's black households do not own cars), and hence will have limited or no access to such new employment opportunities. As noted previously, metropolitan Milwaukee suffers from a "spatial mismatch" between pockets of high unemployment, especially among minorities, and locations of job growth. The negative implications of this spatial mismatch are worsened by the inadequacies of public transit.

State and Federal Housing Policy Impediments

While Milwaukee County is indirectly involved in these state and federal impediments, they must be addressed, as they impact the County's ability to "affirmatively further fair housing."² State and federal impediments include:

² Affirmatively further fair housing (AFFH) is a requirement that communities receiving HOME, CDBG and other federal funds must abide by. HUD has not defined AFFH statutorily.

Impediment #10: Lack of Section 8 Housing Choice Voucher Availability

The current level of funding for the Section 8 program impedes local communities' ability to assist their residents in finding quality, affordable housing.

Impediment #11: No Regional Strategic Plan for Housing

Metropolitan Milwaukee needs to expand the range of housing options available in each and every community, particularly focusing on housing choices for low- and moderate-income households.

Impediment #12: Constant Attack on the Community Reinvestment Act (CRA) by Banking Regulators

Attacks on the CRA by some banking regulators hurt low- and moderate-income and minority neighborhoods.

Impediment #13: No Enforcement Mechanism in Wisconsin's Smart Growth/Comprehensive Planning Law

The existing law contains no enforcement mechanism mandating that communities meet the housing needs of persons with special needs, of all income levels and of all age groups. The result is that communities develop weak and often meaningless housing elements within their comprehensive plans.

Impediment #14: Lack of Resources/Incentives for Developers to Build for the Lowest Income Households

This lack of resources places the County in the position of either having a shortage of housing for the lowest-income households or having to subsidize affordable housing development.

Impediment #15: Wisconsin Housing and Economic Development Authority's (WHEDA) LIHTC Allocation Scoring and Qualified Census Tracts Limit Housing Opportunities

WHEDA's tax credit allocation scoring limits housing opportunity and contributes to the concentration of poverty as well as racial and ethnic segregation in Milwaukee. In addition, the "Qualified Census Tract" preference serves to perpetuate segregation and concentration of poverty.

Impediment #16: Exclusive Suburban Policies

Suburban impediments to fair housing, which include illegal discrimination under the fair housing laws as well as legal discrimination based on household income, often become intertwined and difficult to parse out. Exclusive suburban policies

include: discrimination and discriminatory policy, opposition to housing for families with children, lack of affordable housing, NIMBYism, impact fees, exclusionary zoning codes and inadequate public transit.

Private Market Impediments

Private market impediments are obstacles to fair housing in the housing production, mortgage lending, homeowners insurance, rental and home sales markets. Though Milwaukee County is limited in its ability to directly address private market impediments, it can take a leadership role in bringing these issues to the public's attention and supporting fair housing enforcement and education efforts in the private market.

Impediment #17: Impediments to Housing Production

The main impediment to fair housing in housing production is a lack of programs that provide financial incentives to developers to build accessible housing, affordable housing or larger housing units to accommodate large families.

Impediment #18: Mortgage Lending Discrimination

Discrimination in mortgage lending prevents or impedes home seekers from obtaining the financing normally required to purchase a home. Racial disparities in mortgage loan denial rates are stark. Other major impediments in the lending market include predatory lending, rising foreclosure rates, a lack of Spanish- and Hmong-speaking lenders, lack of flexible underwriting to accommodate persons with no credit history and automated underwriting systems.

Impediment #19: Homeowners Insurance Discrimination

Discrimination in the procurement of homeowners insurance is another way that fair housing choice is impeded. Racial discrimination in the provision of insurance not only denies fair housing choice, but also fosters disinvestment and the deterioration of neighborhoods. In addition to racial discrimination, language barriers can be an impediment in obtaining homeowners insurance.

Impediment #20: Housing Sales and Rental Market Discrimination

A major impediment to housing choice is discrimination in the sale and rental of housing. Racial discrimination remains the major form of discrimination in the housing market and there is strong evidence that despite legislation and enforcement efforts, it has not diminished. Discrimination based on disability and familial status is also common, though discrimination based on all state and federal protected classes still occurs as well.

Recommendations

Recommendations provided to address and remedy the identified barriers to fair housing are the most critical element of this document. This section, therefore, should be used as a starting point for Milwaukee County to develop and implement a comprehensive fair housing action plan. The recommendations are presented in four categories: Milwaukee County recommendations, recommendations for both Milwaukee County Municipalities and the County, State and Federal Policy recommendations and Private Market recommendations.

Milwaukee County Recommendations

Recommendation #1: Create and Implement a Comprehensive Affordable Housing Strategy

a. Improve Scope of the Consolidated Housing and Community Development Plan

It is important that a Comprehensive Affordable Housing Strategy include effective recommendations to ensure participating municipalities' housing policies are affirmatively furthering fair housing, as required by federal regulation.

b. Fund an Affordable Housing Production Task Force

The County should establish and fund an Affordable Housing Production Task Force comprised of private and not-for-profit housing experts, charged with identifying and securing federal and private funds to help subsidize the development of low-income and affordable housing.

c. Evaluate the County's Supply of Affordable Housing

The County should evaluate its supply of affordable housing and take steps to promote affordable housing development within low-poverty areas.

d. Identify and Overcome Housing Production Impediments

The County should convene discussions with for-profit and not-for-profit housing producers and lenders regarding impediments to the production of accessible, affordable, and large (4 or more bedrooms) housing units.

Recommendation #2: Improve Effectiveness of Milwaukee Rent Assistance Program

a. Develop a Plan and Activities to Encourage Landlord Participation in the Rent Assistance Program

Areas that are underrepresented by voucher holders should be identified and targeted for increased landlord recruitment.

b. Educate Rent Assistance Program Participants about the Ability to Use Vouchers at Rental Rates Above HUD Rent Guidelines

The ability for voucher holders to utilize vouchers above HUD's rent guidelines should be more aggressively promoted within the Rent Assistance Program.

c. Adequately Staff the County's Rent Assistance Program

HUD's funding of Milwaukee County's Rent Assistance Program allows for an 8-person staff, which would be sufficient to efficiently administer Housing Choice Voucher funds. However, cross charges within the County's budget only allow for a 6-person staff. The County needs to maximize the use of these federal dollars by adequately staffing this program.

Recommendation #3: Support Comprehensive Fair Housing Services

a. Continued Support of Metropolitan Milwaukee Fair Housing Council

The County should continue support of the Metropolitan Milwaukee Fair Housing Council, which provides comprehensive fair housing services by conducting housing discrimination complaint intake, case management, investigation and legal referral services to victims of discrimination; investigations of systemic forms of illegal discrimination; outreach and education throughout the community; anti-predatory lending activities; and research and advocacy on community and economic development issues.

b. Training for County Staff and Elected Officials

As part of the partnership between MMFHC and Milwaukee County, the staff of the County Board and appropriate County departments should be trained on fair housing law and familiarized with the services of MMFHC to facilitate referrals of fair housing and fair lending inquiries.

c. Outreach to Linguistically Isolated and Bilingual Communities

The County should facilitate the formation of a partnership with organizations that serve non-English speaking persons and persons with limited English proficiency to develop a proactive approach to reach these linguistically isolated populations on fair housing and fair lending issues.

d. Mobility Program

The County should incorporate counseling for persons desiring to make pro-integrative housing moves, either in the rental or sales markets, into its existing housing assistance programs (including its First-time Homebuyer and Rent Assistance Programs).

Recommendation #4: Support Anti-Predatory Lending Activities

a. Support MMFHC's STOPP Program

Support of MMFHC's anti-predatory lending program, Strategies To Overcome Predatory Practices (STOPP), is a critical component of the fight against illegal lending practices in Milwaukee County.

b. Support a Consumer Rescue Fund for Victims of Predatory Lending

Milwaukee County should use its relationships with responsible area lenders, urging them to work with MMFHC and Fannie Mae to participate in a Consumer Rescue Fund (CRF). CRF loans remediate and refinance predatory loans by providing the consumer a loan they can afford, and is appropriate for their circumstances.

Recommendation #5: Improve Community Reinvestment Utilizing the Community Reinvestment Act (CRA)

a. Hold Local Lenders Responsible

Milwaukee County leaders should institute an ordinance that requires lenders who want to do business with the County to provide the County with an annual statement of community reinvestment goals.

b. Submit CRA Comment Letters

Milwaukee County should, in collaboration with the municipalities within the County:

- i) comment on local bank mergers and acquisitions,
- ii) use the CRA comment letters to encourage banks to open additional branches in low- and moderate-income neighborhoods where check cashers and payday loan establishments are concentrated and no bank branches exist;
- iii) meet with lenders who want to close bank branches in low- and moderate-income neighborhoods, in an effort to discuss the needs of those communities and how those needs will be met without a bank branch nearby; and
- iv) encourage lenders to provide the community with alternatives to check cashing establishments.

Recommendation #6: Support Local and Statewide Financial Literacy Efforts

Milwaukee County should promote – monetarily or otherwise – financial literacy education programs, both for adults and youth. In addition, County Treasurer staff should meet with representatives from the City of Milwaukee and the other communities in the County, and ask them to join with the County to form and fund a comprehensive plan to help educate residents about the costs of doing business with fringe financial establishments such as payday lenders, check cashers, and predatory home mortgage lenders.

Recommendation #7: Support a Countywide Housing Trust Fund

Milwaukee County should support the development of a local Housing Trust Fund (HTF) – a new, ongoing, dedicated source of revenue to support affordable housing. The HTF could be administered by the County and support a wide range of housing, including permanent housing services for the homeless, the development and preservation of affordable rental units as well as supporting first-time homebuyers and preserving the homes of existing homeowners.

Recommendation #8: Produce an Annual Report of Lending Practices in Milwaukee County

The County Treasurer's Office should produce and distribute an annual report of lending activity in Milwaukee County. A similar report is produced by the City of Milwaukee, *City of Milwaukee Annual Review of Lending Practices of Financial Institutions*. A countywide report containing similar analyses would be a valuable resource in the County's ability to analyze lending patterns and respond to lending patterns that harm County residents.

Recommendation #9: Fund a Renter Education Program

The County's CDBG program should fund a Renter Education Program, such as Rent Smart,³ to educate tenants and prepare them for the rights and responsibilities of renting as well as prepare them for homeownership.

Recommendations for Both Milwaukee County Municipalities and Milwaukee County**Recommendation #10: Review and Amend Local Fair Housing Ordinances**

Each suburban community, as well as Milwaukee County, should conduct a thorough review of its fair housing ordinance to evaluate whether the protections, prohibited practices, penalties and enforcement mechanisms are at least as comprehensive as existing federal and state fair housing laws. Some of the necessary amendments include:

- Inclusion of protected classes as covered under state and federal fair housing laws.
- Clarification of definitions and expansion of persons protected and practices prohibited.
- Expansion of protections for persons with disabilities.

³ Rent Smart is a teaching guide, developed by staff from the University of Wisconsin – Extension in consultation with a variety of other organizations. The program stresses information that can help participants succeed as tenants and avoid confrontations and legal disputes. A certificate is awarded to participants who successfully complete the training.

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- Expansion of protection to all segments of the housing market, including homeowners insurance and all facets of lending transactions.
 - Repealing illegal prohibitions against testing to investigate housing discrimination.
 - Clarification and strengthening of local enforcement mechanisms within the communities.
 - Designating the appropriate resource for referrals of complaints (i.e., not the Building Inspector, Wisconsin Department of Commerce, village clerk, etc.).
 - Specifying and increasing penalties for violations of the law.
 - Inclusion of relief for victims of housing discrimination in the form of compensatory and injunctive relief.
 - Revisions and amendments of ordinances to reflect statutes of limitations contained in federal and state fair housing laws.

Recommendation #11: Ongoing Monitoring of Local Fair Housing Ordinances

Each community and Milwaukee County should periodically monitor and conduct annual reviews of their fair housing ordinances to ensure they are at least as comprehensive as current federal and state fair housing laws.

Recommendation #12: Fair Housing Training for Local Authorities

Persons or entities designated with the responsibility to review and adjudicate fair housing complaints must be adequately trained to fulfill their statutory mandates. This includes the members of fair housing boards or commissions with the designated enforcement powers.

Recommendation #13: Fair Housing Boards and Commissions Should Conduct Meaningful Activities

Those communities which have designated fair housing commissions or boards to enforce their ordinances cannot allow those bodies to be merely “paper tigers.” It is necessary to conduct regular meetings and activities to further fair housing within their respective communities.

Recommendation #14: Fair Housing Training for “First Point of Contact” Staff

Local communities must build in safeguards to ensure that persons requesting assistance for possible fair housing violations obtain timely and accurate information from anyone who may answer a phone or field fair housing inquiries from the public. Local staffs must receive training to ensure referrals are made to appropriate sources that conduct fair housing services.

Recommendation #15: Utilize Tax Incremental Financing (TIF) to Produce Accessible Housing

Milwaukee County should advocate for its participating municipalities to more assertively use TIF to increase the production of accessible housing units for persons with disabilities.

Recommendation #16: Utilize Tax Incremental Financing (TIF) to Produce Affordable Housing

The County should promote the use of TIF to create more affordable housing units within its participating communities.

Recommendation #17: Promote Integrated Neighborhoods through Inclusionary Zoning

The County should urge local communities to pass inclusionary zoning ordinances designed to increase the economic integration of a community. The County should promote this recommendation to its participating municipalities as part of their obligation to affirmatively further fair housing.

Recommendation #18: Review Zoning Ordinances Regarding Community Living Arrangements

The County should strongly urge communities within the county to partner with disability advocacy groups, such as Disability Rights, Inc., Independence^{First} and others, to review and analyze the Community Living Arrangements section of their zoning ordinances.

State and Federal Recommendations

Recommendation #19: Advocate that HUD Expand Definition of “Homelessness”

An expanded definition, agreed upon among national advocates, is to include people who are sharing the housing of others due to loss of housing, economic hardship, or a similar reason, and people living in motels due to a lack of alternatives.⁴ This broadened definition would allow persons to avoid actually living on the street before they are eligible for the housing assistance.

Recommendation #20: Advocate for Changes in State and Federal Programs to Expand Affordable Housing Options

a. Advocate for Additional Section 8 Housing Choice Vouchers

Milwaukee County should facilitate a meeting with local HUD officials, as well as Wisconsin’s U.S. Senators and Representatives, to discuss the adverse impact of recent HUD actions. Milwaukee County should advocate for additional Housing Choice Vouchers or alternative means to meet the need of low-income residents.

b. Advocate for Affordable Housing Production Resources

Milwaukee County should facilitate a meeting with state and federal elected officials to advocate for additional financing resources to build affordable housing, particularly for extremely low-income persons.

c. Advocate for Revisions to WHEDA’s Low Income Housing Tax Credit (LIHTC) Program Allocation Scoring

Milwaukee County should advocate that WHEDA develop a scoring mechanism that calculates the need for affordable housing based on the wages and salaries of the employment opportunities in that municipality and eliminates the provisions by which developments receive additional scoring points awarded for community support of projects.

d. Participate in SEWRPC’s Regional Housing Strategy

⁴ Recommended definition comes from the National Policy and Advocacy Council on Homelessness (http://www.npach.org/expand_def.htm)

The Southeastern Wisconsin Regional Planning Commission (SEWRPC) is scheduled to begin a regional housing study in 2008; Milwaukee County should play a primary role in this planning effort to ensure urban issues such as concentration of poverty and racial segregation are properly addressed.

Private Market Recommendations

Recommendation #21: Advocate for Open and Inclusive Real Estate and Rental Markets

Milwaukee County should advocate for more open and inclusive home rental and sales markets by working with the housing industry as follows:

- The County should work cooperatively with the real estate industry and its trade associations to develop ways for local agents to become more familiar with all neighborhoods in Milwaukee County.
- The County should use its relationships within the housing industry to encourage housing providers to seek training from MMFHC.
- The County should continue to have its Rent Assistance Program staff trained by MMFHC on the provisions of fair housing laws and remedies available to their clients.
- The County should encourage greater efforts on the part of the lending, real estate and rental industries to hire and train minority and bilingual lenders, underwriters, real estate and rental professionals.
- The County should promote more active participation by providers of rental housing in local rent assistance programs to expand locational choice for low-income and minority residents.

Introduction

The following report, the ***Milwaukee County: Analysis of Impediments to Fair Housing*** is required by the US Department of Housing and Urban Development (HUD) from all communities that receive Community Development Block Grant (CDBG) funds.⁶ To maximize the potential of this report, Milwaukee County officials must view it as more than just a requirement for receiving block grant funding. It should be used as a meaningful tool enabling the community to take steps to ensure equal access to housing opportunities for all persons in Milwaukee County.

According to Carolyn Peoples, former Assistant Secretary of HUD’s Fair Housing and Equal Opportunity Office, “Once the jurisdiction completes the AI, it must report on its implementation by summarizing the impediments identified in the analysis and describing the actions taken to overcome the effects of the impediments identified through the analysis in its Consolidated Annual Performance and Evaluation Report (CAPER). Although AIs are not submitted or approved by HUD, each jurisdiction should maintain its AI and update the AI annually where necessary. Jurisdictions may also include actions the jurisdiction plans to take to overcome the impediments to fair housing choice during the coming year in the Annual Plan that is submitted as part of the Consolidated Plan submission.”⁷

Fair Housing

Fair housing is a civil right that guarantees equal housing opportunities for all persons regardless of race, color, religion, sex, disability, familial status, national origin, (under federal and state laws) source of income, age, ancestry, marital status and sexual orientation (under state law only).⁸ These categories, which are defined in the federal Fair Housing Act and the Wisconsin Open Housing Law, are known as “protected classes.” An *impediment* to fair housing is anything that may hinder or prevent a person from having equal access to housing because of their membership in a protected class. Impediments may take the form of a city or other governmental entity’s policy, practice or procedure, housing industry practices, or other societal factors.

Scope of the Study

The “Milwaukee County: Analysis of Impediments to Fair Housing” contains several components. First, the study provides an analysis of demographic and economic characteristics in relation to their impact on fair housing. Included are descriptions of Milwaukee County’s racial composition and metropolitan segregation, household profiles, population of persons with disabilities, homeownership, age distribution, employment and income levels, poverty, unemployment patterns, transportation, housing supply characteristics, education and linguistic isolation. Next, the report identifies impediments to fair housing. An impediment is any barrier that may hinder or prevent a person from having equal access to housing because of membership in a federal or Wisconsin protected class. Impediments may take the form of a city or other governmental entity’s policy, practice or procedure, housing industry practices, or other societal factors. Impediments are organized into three broad categories: Milwaukee County impediments, federal and state impediments and private market impediments. Finally, this report lists recommendations for dismantling the impediments to fair housing choice.

Demographics and Economic Characteristic Analysis: Fair Housing Implications

Milwaukee County's current housing conditions are created by a complex combination of factors, including:

- illegal discrimination in the housing market,
- geographic preferences of home seekers,
- demographic shifts,
- changes in the number and structure of households, and
- trends in the larger economy.

Milwaukee County's demographic, economic and social characteristics will be discussed in this section of the study, with emphasis on characteristics related to impediments to fair housing choice in the housing market.

In January 2005, the County submitted a *Consolidated Housing and Community Development Plan* for the years 2005-2009. This document contains a useful summary of 2000 census data for Milwaukee County and was used as a source for much of the demographic data in this section. Additional 2000 census data and geographic information science (GIS) maps were also used in this report to map socioeconomic and housing market conditions and assist in highlighting patterns that may otherwise go unnoticed.

In this report, distinctions will be made between the entire County and the Milwaukee County *Housing Planning Area*, or HPA, which is the County minus the City of Milwaukee.⁵ Further, in order to evaluate the demographic and economic characteristics of Milwaukee County, it is important to look at the entire Milwaukee Metropolitan Area (including Ozaukee, Washington and Waukesha Counties) to provide a larger context for analysis and to serve as a comparison to the County. In this section the metropolitan area is often compared with Milwaukee County in order to illustrate trends, distinguishing features and linkages that impact the area as a whole.

⁵ Some County data did not allow for the removal of the City of Milwaukee data. The HPA is the County Consolidated Plan term for all the communities in the County except the City of Milwaukee, which receives its own CDBG funds.

Table 1: Metropolitan Milwaukee Population Distribution, 1980 - 2000

County	1980		1990		2000	
	Population	Percent	Population	Percent	Population	Percent
Milwaukee	964,988	69.1%	959,275	67.0%	940,164	62.6%
HPA	328,693	34.1%	331,187	34.5%	343,190	36.5%
City of Milwaukee	636,295	65.9%	628,088	65.5%	596,974	63.5%
Ozaukee	66,981	4.8%	72,831	5.1%	82,317	5.5%
Washington	84,848	6.1%	95,328	6.7%	117,493	7.8%
Waukesha	280,326	20.1%	304,715	21.3%	360,767	24.0%
Total	1,397,143	100.0%	1,432,149	100.0%	1,500,741	100.0%

In 2000 Milwaukee County's population was 940,164, a decrease of 2% from 1990. This is primarily due to the City of Milwaukee's 5% population loss during this time. In contrast, the HPA grew by 3.6% and surrounding suburban counties (Ozaukee, Washington and Waukesha) grew by 18.5% during the same period. Since 1970, Milwaukee County's proportion of the four-county region's population has been decreasing, even as the region grows in population. According to the Milwaukee County Consolidated Housing and Community Development Plan, "Eleven communities in the HPA lost population in the last decade, while 7 gained. However, most of the gain was in 2 municipalities (Franklin, Oak Creek). Four communities (West Milwaukee, Greenfield, Franklin, Oak Creek) had 10 year growth rates faster than that of the HPA. The relative size of the 18 communities comprising the Housing Planning Area population increased from 34.5% to 36.5% of the County total." ⁶

⁶ Milwaukee County Consolidated Housing and Community Development Plan, 2005-2009

Racial Composition and Segregated Residential Patterns

An examination of demographic changes reveals increases in nonwhite residents in the County between 1990 and 2000:

- During this decade the Hispanic population grew by 104%, thus becoming 3.1% of the overall HPA population within Milwaukee County by 2000.
- Asians also had a marked increase, growing by 120% (7,689 persons) between 1990 and 2000. By 2000, the Asian population accounted for about 2% of the overall HPA population.
- From 1990 to 2000, the African American population grew by 128% (9,610 persons). The African American population makes up 2.4% of the County's HPA.
- The white population comprises 92.8% of the County's HPA population.

As will be discussed in greater depth below, housing patterns in Milwaukee County and the surrounding region are racially segregated. In 2000, only 63% of the entire metropolitan population resided in Milwaukee County, but 94% of the metropolitan Milwaukee *minority* population resided there. The existence of segregated housing patterns in metropolitan Milwaukee is illustrated by the fact that minority populations comprise 50% of the City of Milwaukee population, but only account for 7% of the population in the rest of Milwaukee County and just 3% in other counties' suburbs. This is the lowest metropolitan suburbanization rate for minorities in the entire nation.⁷

The County's Consolidated Plan addresses segregation in a manner that is factually correct but lacks appropriate attention to the broader context of segregation in the region: "Over the past decade, minority population growth rates were higher in every HPA community than the City of Milwaukee, except one. While the percentage of persons with incomes below poverty level declined in Milwaukee, they grew in 16 (of 18) HPA communities."⁸ The HPA minority population increased from 10,267 to 24,596, or 140%, between 1990 and 2000. Of the HPA communities, Brown Deer, Glendale and River Hills had the largest proportion of African Americans. West Milwaukee and Oak Creek had the highest proportion of Hispanics.

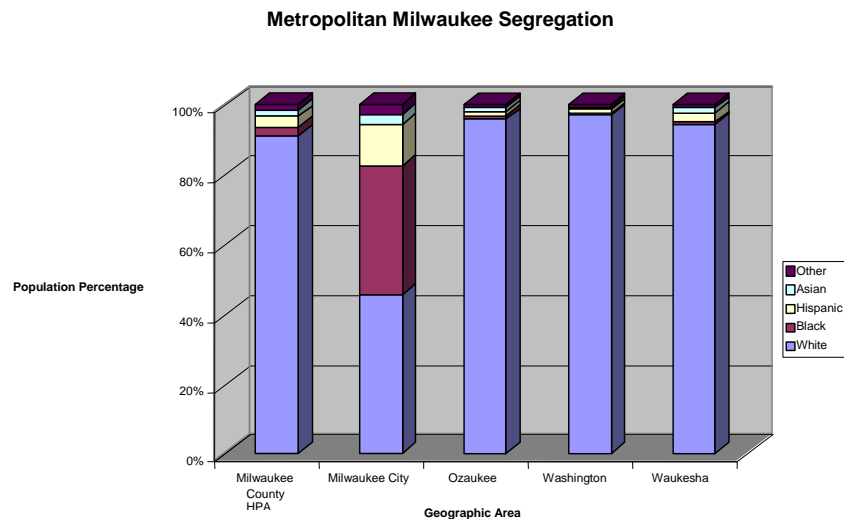
⁷ Quinn, Lois and Pawassar, John; Racial Integration in Urban America: A Block Level Analysis of African American and White Housing Patterns, University Wisconsin – Milwaukee, Employment and Training Institute, January 2003

⁸ Milwaukee County Consolidated Housing and Community Development Plan, 2005-2009

In addition, the Consolidated Plan states, “[c]oncentrations of low-income or minority households – defined as 2 times a community’s average rate within 1 or more adjacent census tracts – have not been found in the HPA’s non-institutionalized population. Low-income and minority households are scattered in the communities.”⁹

While these excerpts from the County’s Plan are statistically accurate, and an essential aspect of integrating communities in the County, it should be noted that many of the communities with higher minority growth rates than the City of Milwaukee started with very few minorities. If a community has very few minorities it is less likely that those populations will be concentrated, and much easier to achieve a higher minority growth rate – in short, without looking at the broader geographic context, it’s easy for such communities to look more integrated than they really are.

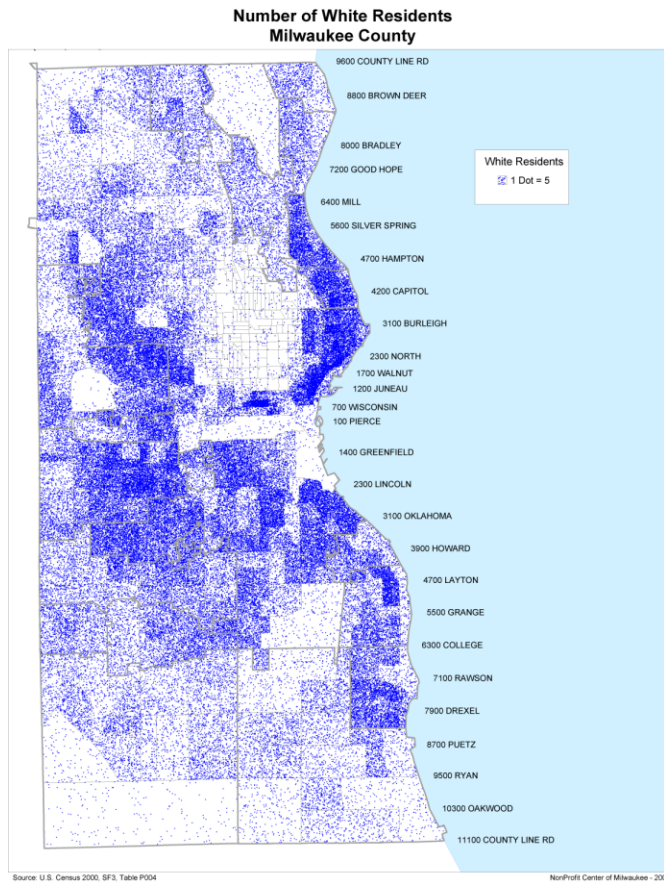
Figure 1: Metropolitan Milwaukee Segregation, 2000



⁹ Ibid.

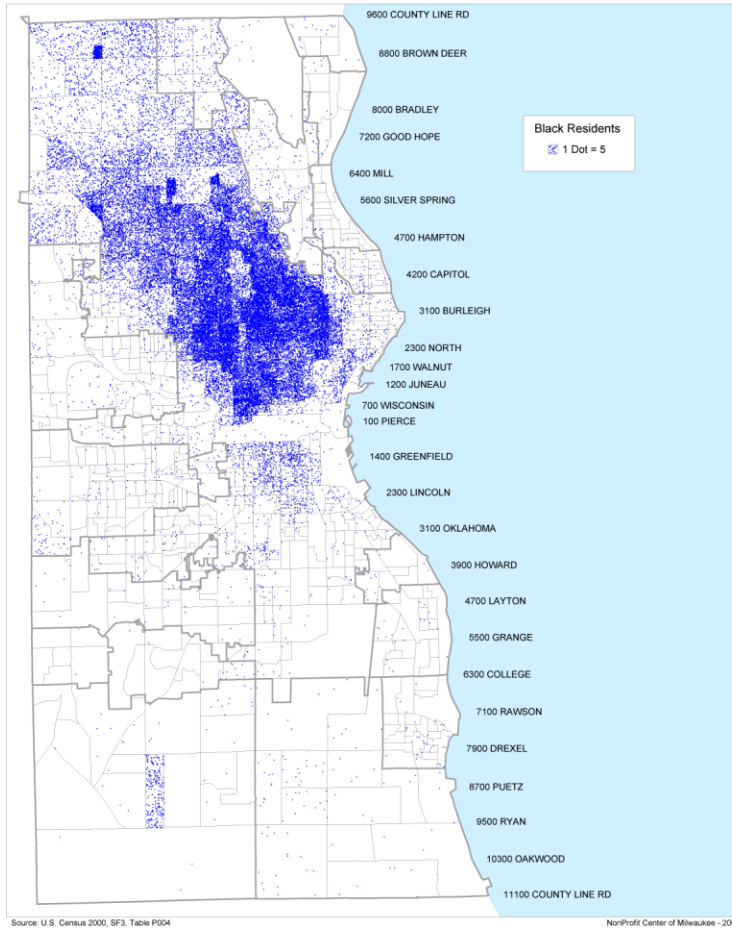
Figure 1 illustrates that even Milwaukee County, statistically the most diverse county in the metropolitan region, is not much more integrated than Ozaukee, Washington or Waukesha Counties, once the City of Milwaukee's population is subtracted. The vast majority of minorities in the region reside in the City of Milwaukee.

Map 1: Dot Density for White population



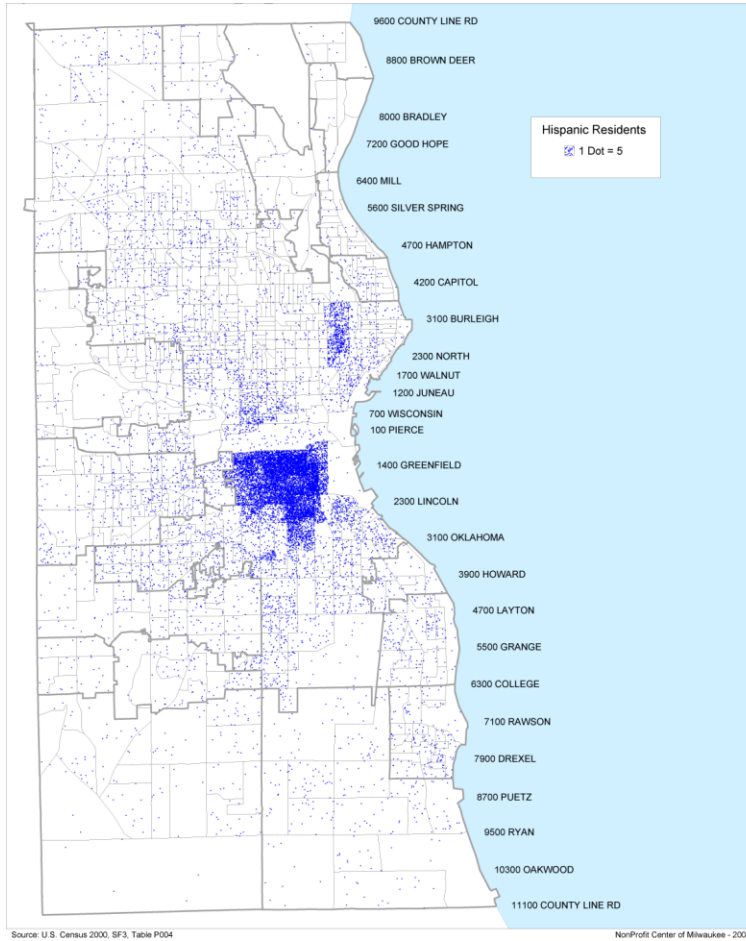
Map 2: Dot Density for African American population

Number of Black Residents
Milwaukee County



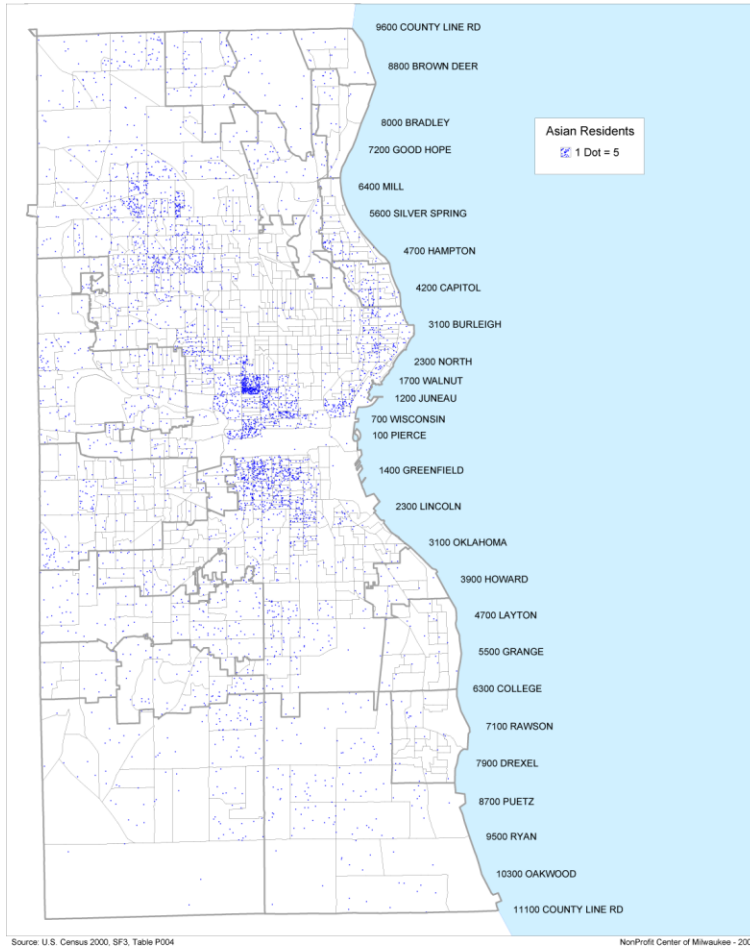
Map 3: Dot Density for Latino population

Number of Hispanic Residents
Milwaukee County



Map 4: Dot Density for Asian population

Number of Asian Residents
Milwaukee County



The Milwaukee County Consolidated Plan states the following in regard to the origins of racial segregation:

“Few aspects of public policy are more complicated than racially segregated housing. The forces that in the past limited a minority household’s housing choice and helped create the present housing patterns are not the same forces that maintain such patterns. Prior laws and covenants restricting choice have either been eliminated or have no credence. Outright discrimination by the professional sellers, financiers, and managers of real estate is no longer overtly institutionalized, although individual acts do continue to occur.

Other forces continue segregated housing and limit choice. Economic factors are significant. Over time, what is perceived as valued housing has changed, often to the detriment of existing housing. Communities have a vested interest in achieving and maintaining high property values, and will act to do so. Households without the resources to purchase higher cost housing will be limited in where they can choose to live. Many minority households have low incomes. Why this is so is a complex question that involves both population and individual factors, but the inability to afford housing affects a household’s housing choice.”

Legally sanctioned discriminatory housing practices created segregated and unequal neighborhoods and communities in Milwaukee. Although discrimination is no longer legal, it is still an endemic problem. Residential segregation persists due to ongoing institutional, governmental and private market discrimination, long-standing housing patterns, and current and historic economic disparities. Further, while the Milwaukee County Consolidated Plan states that “[p]rior laws and covenants restricting choice have either been eliminated or have no credence,” the effects of those laws and covenants are so entrenched in present housing patterns that they do have some credence still – if not legally, then at least in the reality lived by many Milwaukee County residents. Governmental inaction to erase the consequences of historical discrimination ensures that unequal housing opportunities persist into the present day. Racial residential segregation in Milwaukee has contributed to economic disadvantage by reducing minorities’ access to jobs, transportation, and retail establishments, as evidenced by many indicators of racial disparity that exist in southeastern Wisconsin.

Although the causes of segregation are complex, it is possible to identify three main factors that contribute to the current concentration of minority populations in Milwaukee County:

(1) Discrimination – The most significant factors accounting for segregated housing patterns are discriminatory practices on the part of various actors in the housing industry and government housing policy.

(2) Economics – Housing costs tend to be higher in the suburbs and minority income tends to be lower than that of the majority population. However, as illustrated in Map 5, African Americans with 200% or more of the county median income live predominately in the City of Milwaukee, so economics alone do not explain segregation.

(3) Choice – Some housing consumers – particularly whites – choose to live in neighborhoods that are racially or ethnically homogeneous.¹⁰ The term “choice” is less apt for minority housing consumers, because they face a much more limited array of housing choices than do white homeseekers, due to the preceding two factors – discrimination and income disparities. Self-segregation is, by and large, a phenomenon driven by white households.

Prior to the passage of the Fair Housing Act of 1968, various forms of discrimination and institutional racism were legal: racially restrictive covenants,¹¹ redlining by banks and insurance companies,¹² discrimination in real estate and rental practices, racially segregated public housing, blockbusting,¹³ Federal Housing Administration¹⁴ and Veterans Administration mortgages, urban renewal,¹⁵ freeway construction, white flight,¹⁶ central city disinvestment and exclusionary zoning¹⁷/NIMBYism¹⁸ by the

¹⁰ Jackson 1985; Massey and Denton 1993; Yinger 1996

¹¹ Racially restrictive covenants required buyers of property contractually to sell their homes only to people of particular races.

¹² Redlining is a practice in which banks and/or insurance companies do not offer their products or services, or offer inferior products or services, within predominantly minority neighborhoods.

¹³ Blockbusting is the practice of inducing homeowners to sell their properties by making representations regarding the entry or prospective entry of persons of a particular race or national origin into the neighborhood.

¹⁴ Underwriting guidelines for Federal Housing Administration (FHA) mortgages required that “properties shall continue to be occupied by the same social and racial classes” through the 1930s and FHA practices solidified dual housing markets for whites and African Americans that persist today in cities across the country (Bradford 1979; Bradford and Cincotta 1992).

¹⁵ Urban renewal, referred to by many as “Negro Removal,” uprooted entire minority communities with little or no consideration or concern regarding the impact on the existing residents. Moreover, those plans often resulted in the discriminatory taking of property, thus stripping wealth and equity from these communities (Written testimony of Cheryl Ziegler, Director, Housing and Community Development Project Lawyers’ Committee for Civil Rights Under Law, Before the Charleston City Council)

¹⁶ The departure of white families usually from urban neighborhoods undergoing racial integration or from cities implementing school desegregation.

¹⁷ Exclusionary zoning are laws that establish maximum density and minimum lot size requirements restrict opportunities for low-income households, thus effectively discriminating against minorities.

suburbs. Over a century of legalized discrimination and institutionalized racism created a system in which racial segregation was the only possible result.

Segregation has been costly to our region on several levels. It creates a continuous cycle of racial disparity. Housing segregation leads directly to inferior schools for minorities. Employment opportunities are denied to minorities who are isolated, often in declining and dangerous neighborhoods.¹⁹ Access to quality health care and other vital services also declines dramatically in segregated environments. Discriminatory housing practices and the consequent segregation of housing patterns reduces homeownership opportunities for minorities and depresses the market values of the homes they do own. Compared to the housing wealth that whites have accumulated, the costs of such discrimination to African Americans and Latinos has been estimated to reach \$600 billion nationwide.²⁰ In Milwaukee, the costs have been estimated to be \$2.2 billion, or \$31,000 per African American household and \$26,000 per Latino household.²¹

Not only do the negative effects of segregation hurt the minority community, but the regional economy also suffers from segregation. Ensuring equal access to housing that is linked to high performing schools, sustainable employment, transportation infrastructure, and childcare is essential for securing an economically viable and sustainable region in Southeastern Wisconsin. Housing is a critical and fundamental element that contributes to expanded social and economic opportunity for individuals and families. When it is affordable and linked to these other opportunities, it can serve as a conduit to improved life outcomes and an improved region.

Studies that rank segregation, integration, and dissimilarity levels in major metropolitan areas around the country are published frequently. For many years, Milwaukee has consistently been ranked among the top five most segregated metropolitan areas in the U.S. Some argue that the rankings that these studies calculate are meaningless, but that the real value of their promotion in the media lies in the continuation of a valuable and necessary dialogue about race and segregation in this region. Instead of

¹⁸ NIMBY is an acronym for “*Not In My Back Yard*.” A term for a person who resists unwanted development, in this case, any development that may attract person of other races or classes.

¹⁹ Massey and Denton 1993

²⁰ Yinger 1995

²¹ Madison and Squires 1996

worrying about if we are more segregated than other parts of the country, it is important that we concentrate on the causes and the consequences of this segregation in order to create policies that effectively address the problem.

Household Profiles

Throughout much of the U.S., an increase in the number of households is occurring at a rate that exceeds population growth. This is due to a variety of factors, including the growing number of single person and single parent households, longer life expectancies and the rate of divorce. A result of this trend is smaller household size. Consider:

- The number of households in Milwaukee County's HPA increased by 13,033 between 1990 and 2000, or 9.8%.
- However, the numbers of three, four, five, six and seven person households decreased between 1990 and 2000 by 1565 households.
- One-person households increased significantly, by 29.2%, or 10,578 households during the same period.
- Two-person households also increased by 8.9%, or 4020 households, between 1990 and 2000.

African American households in Milwaukee are more likely to include children and grandchildren. This has considerable fair housing implications as under the State of Wisconsin Open Housing Law, as households with children and intergenerational households such as these are considered a protected class.

As illustrated in Figure 3, minority households tend to be larger than white households; as a result, they are more likely to require larger housing units.

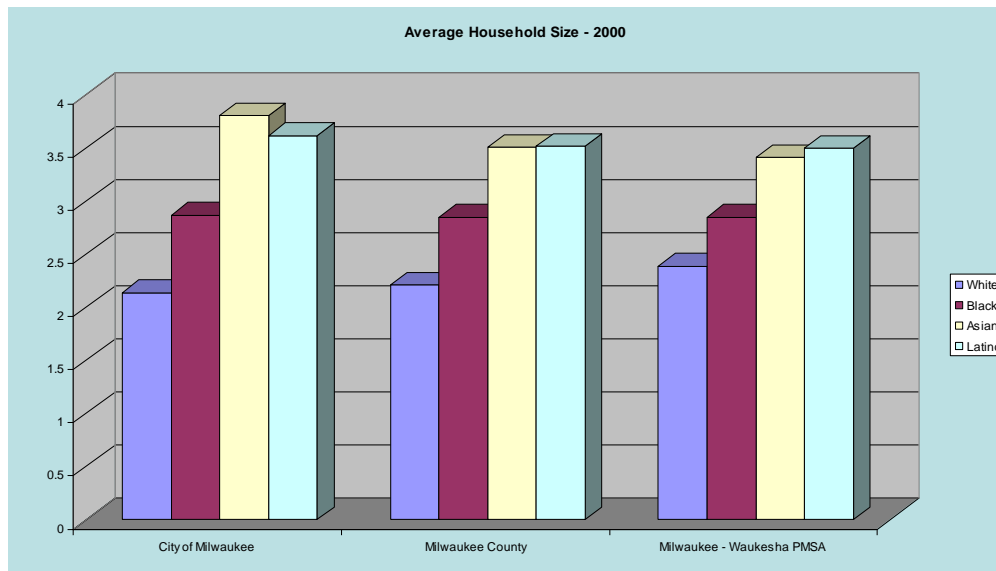
- White households have an average household size of 2.2 persons in Milwaukee County.
- Milwaukee Asians and Latinos have an average household size of about 3.5 persons.
- African Americans have an average of about 2.9 persons per household.
- In comparison, the average household size in Wisconsin and the U.S. is 2.5 persons.

Although average household size declined, the 2000 census reported an increase in the percentage of households that lived in overcrowded conditions. The traditional census definition of overcrowded household is a household that has more persons

than the number of rooms it occupies. (Bathrooms and hallways are not included.) In 2000, 1.3% of the County's HPA households were overcrowded. The number of households experiencing overcrowding increased by 638 between 1990 and 2000. As the Milwaukee County Consolidated Housing and Community Development Plan notes, "[f]amilies may find 'house partners' necessary to meet the cost of housing, which can result in overcrowding".²²

The highest percentages of overcrowded households (those higher than the HPA average) occurred in West Milwaukee (5.8%), St. Francis (2.6%), Brown Deer (2.3%), Cudahy (2.2%), Greenfield, Shorewood and Oak Creek (1.5%), and South Milwaukee (1.4%). The impacts of these conditions are clearly fair housing concerns, as an increase in overcrowding has a negative impact on the housing choices of larger families, particularly minority households and those with children.

Figure 2: Metropolitan Milwaukee Household Size, 2000



²² Milwaukee County Consolidated Housing and Community Development Plan, 2005-2009

In addition, “the traditional family of two biological parents and their children now makes up less than half (39%) of the County’s households. Two in ten households (21%) are headed by a single parent, most of whom are female.”²³ In addition, over 50% of African American households are female-headed, compared with about 20% of Asian households.²⁴ The Milwaukee County Consolidated Housing and Community Development Plan goes on to note that “[gr]owth rates for female-headed households in 13 County communities exceed the County’s. The highest rates are in the two fastest growing communities, Oak Creek and Franklin.”²⁵ These households are particularly vulnerable to discriminatory practices in the housing market (including predatory lending) because of race, gender, marital status and presence of children in the household.

Persons with Disabilities

There is a wide range of physical disabilities that can impede access to housing. Ensuring an adequate supply of accessible housing to meet the needs of persons with disabilities must be a countywide goal. While the actual number of accessible private housing units is not available, multiple sources indicate that demand for such housing is greater than supply. According to the 2000 U.S. Census, nearly 25.1% of Milwaukee County’s HPA population has a disability (including physical disabilities, mental disabilities, mobility disabilities and “other”). The City of Milwaukee “has the highest number of people reporting a disability of some type (215,654 persons or 36.1%). However, in comparing sizes of municipal populations, West Milwaukee (at 40.3%) has a higher percentage of persons with disabilities within its border than does the City of Milwaukee (36.1%). Seven other HPA communities have percentages higher than that of the Housing Planning Area as a whole (25.1%).”²⁶

People with disabilities are more likely to have incomes below the poverty level in both Milwaukee County and the four-county metropolitan Milwaukee area. Of the Milwaukee County population of persons with disabilities, 20.5% have incomes below the poverty level. Just over 15% of people without a disability have incomes below the poverty level in Milwaukee

²³ Milwaukee County Consolidated Housing and Community Development Plan, 2005-2009

²⁴ *Milwaukee Urban Atlas*, March 2003.

²⁵ Milwaukee County Consolidated Housing and Community Development Plan, 2005-2009

²⁶ Ibid.

County. Furthermore, in the metropolitan area, people with disabilities are concentrated most heavily in West Milwaukee and the City of Milwaukee, not coincidentally where most affordable housing is located.

Persons with disabilities are more likely to be unemployed or employed in lower paying jobs. Based on income data as well as interviews with area Independent Living Centers serving Milwaukee and Wisconsin, it is very evident that persons with disabilities are proportionally more in need of affordable housing than those without disabilities. The combined need for housing that is both accessible and affordable poses great challenges for many.

Homeownership

The number of owner-occupied *units* in the County's HPA increased by 8.1% during the 1990s. However, the homeownership *rate* decreased from 65% in 1990 to 62% in 2000. Homeownership rates in the HPA vary from 33.2% (West Milwaukee) to 90.1% (River Hills).

Homeownership rates decreased for all racial and ethnic groups. Asians experienced the largest decrease from about 58% in 1990 to 46% in 2000. About 40% of African American households owned their housing units in 2000 compared with 48% in 1990. Latino ownership rates decreased from about 51% to about 47% by 2000. Whites experienced a negligible decrease from 65.6% to 65.5% in the 1990s. This data shows that a sizeable racial disparity in homeownership between African Americans, Asian Americans and whites is growing. Solutions addressing this gap will be provided in the *Recommendations* section.²⁷

²⁷ The U.S. Census margins of error for this data indicate that these decreases may or may not be significant. However, because decreases exist across the board, for every racial and ethnic group, it is likely that these statistics represent valid information showing a downward trend in homeownership.

Table 2: Milwaukee County Housing Planning Area, Renter/Homeownership Proportion, 1990-2000				
	1990		2000	
	Number	Percent	Number	Percent
Total Housing Units	136,511	100%	150,878	100%
Occupied	132,508	97.0%	145,541	96.5%
By owner	86,539	65.1%*	93,517	64.3%*
By Renter	45,969	34.9%*	52,024	35.7%*
Vacant	17,667	3.0%	5,327	3.5%

* Of All *Occupied* Housing Units

Age Distribution

According to the Milwaukee County Consolidated Housing and Community Development Plan, “[w]hile the elderly make up significant numbers of some community’s populations and continue to be the largest category of households in need of assistance, it is of note that 2000 Census data show the percentage of elderly declined in 16 of 19 County communities between 1990 and 2000. The County is becoming younger.”²⁸ However, another report from the Milwaukee County Department on Aging suggests that this trend will not last, and that the County will be overwhelmingly aging in the next three decades.²⁹ Whichever trend one emphasizes, it is clear that projections for the elderly population for 2030 predict a significant increase. In 2000, 16.3% of the County’s population was 60 and older, by 2030 that proportion will likely reach 23.5%, an increase of over 88,000 persons. The aging of Milwaukee County’s population has several fair housing-related repercussions. As the population ages, there will be a corresponding need for increased enforcement of fair housing laws’ accessibility provisions, as well as education for this population so that elderly persons are aware of their accessibility-related fair housing

²⁸ Milwaukee County Consolidated Housing and Community Development Plan, 2005-2009

²⁹ *The Face of Aging in Milwaukee County*, Milwaukee County Department on Aging Older Adults Demographics Program, prepared by E jj Olson & Associates, July 2004

rights. In addition, housing providers and developers will require increased access to education regarding their responsibilities to provide accessible housing.

The Milwaukee County Consolidated Housing and Community Development Plan notes that “[e]leven suburban communities have a percentage of elderly people larger than the HPA, and 15 HPA communities have percentages larger than the County’s. Glendale’s elderly percentage (the highest at 29.4%) approaches twice that of the County (16.3%).”³⁰

The median age for Milwaukee County residents was 33.7 years in 2000, which is younger than both the United States’ median age of 35 and the Wisconsin median age of 36.³¹ Median age by race and ethnicity varies significantly in Milwaukee, as shown in Figure 4 below.

- The median age for whites is 38.9.
- Asians have a median age that is 35% below that of whites, or 25.1.
- Latinos have a median age that is 41% below whites, or 22.9.
- The median age of African Americans is 35% lower than whites, or 25.3.

The significantly younger median age of minority households presents many implications for future and current housing needs. Currently, larger units are needed to accommodate larger families with children. The younger median age of persons of color suggests that many of these persons are children, likely not yet owning or renting their own housing. Future implications of the younger median age are clear. As the children of these families become adults, they will likely continue and amplify the trends their parents and grandparents catalyzed: a strong need for affordable housing and larger housing units.

³⁰ Milwaukee County Consolidated Housing and Community Development Plan, 2005-2009

³¹ The Milwaukee County median age includes the City of Milwaukee median age of 30.6. Given the option of excluding the City from the County’s median age, it would likely be more reflective of the US median.

Employment, Income and Poverty

Milwaukee County's unemployment rate increased between 1990 and 2000.³² Fully 9.4% of the County's labor force (including the City of Milwaukee) was unemployed at the time of the 2000 U.S. Census. The most recent increase was contrary to national and state trends. Unemployment rates for both the United States (6%) and Wisconsin (5%) decreased between 1990 and 2000.

Racial disparities in the unemployment rate exist but are not nearly as stark as those that exist in the City of Milwaukee.

- The unemployment rate for African Americans (16.5%) in the City of Milwaukee is more than 5 times higher than for African Americans in the County HPA (3.0%).
- The unemployment rates for Latinos (12%) in the city are 3 times higher than they are for Latinos in the HPA (4.0%).
- Asian unemployment rates in the city (9%) are more than 4 times that of Asians in the HPA (1.6%).
- Whites in the City (4.5% are unemployed) also fare worse than whites in the HPA (where 2.3% are unemployed).

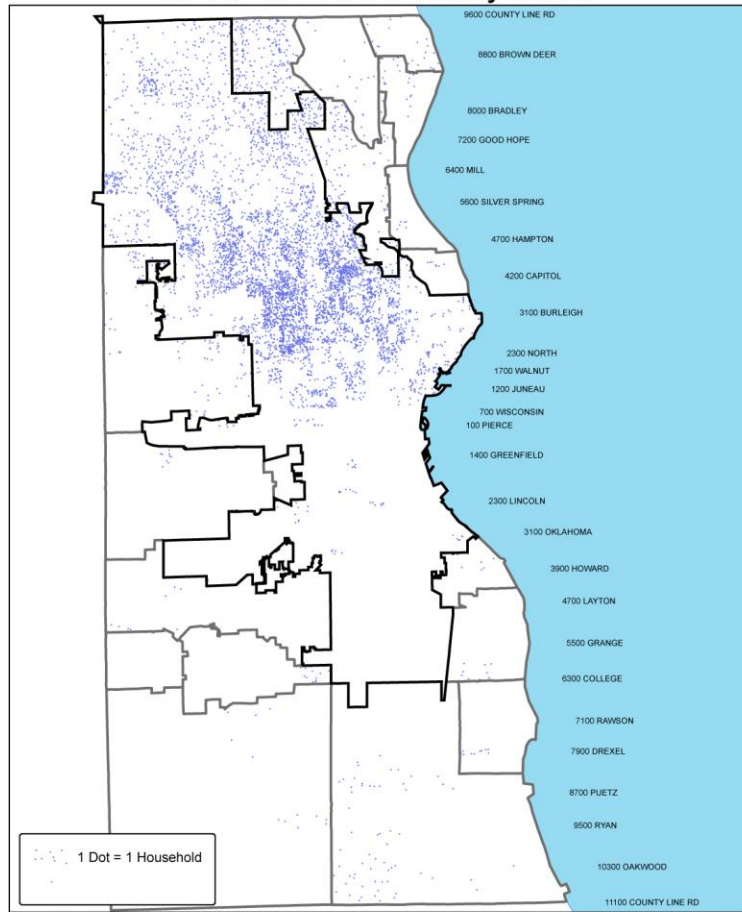
Whether this disparity between the City and the HPA indicates that employment options are greater in the HPA, and/or that it is more difficult to live in the HPA if a person is unemployed, is open to debate.

Furthermore, on average, African Americans and Latinos earn significantly less per year than whites. African American households in the Milwaukee area on the average earned 49 cents for every dollar earned by whites by the end of the decade, according to an analysis of the census data by the Lewis Mumford Center at the State University of New York at Albany. This is the largest income disparity between whites and blacks in the U.S. Latino households earned 66 cents for every dollar earned by whites. Given the relatively higher unemployment rates and lower incomes of African Americans and Latinos in Milwaukee, the need for affordable housing for these populations is clear.

³² An unemployed person is someone in the labor force not working but actively seeking employment.

Map 5: Where Affluent African Americans Live

African American Household Income
Greater than 200% of County Median



Map 5 indicates where African Americans with 200% of the County median income live. Affluent African Americans are racially segregated in the City of Milwaukee, particularly in neighborhoods on the northwest side of the City, showing that income alone does not explain African Americans' low rate of suburbanization. Affluent African Americans and their lower-income counterparts live, in many cases, side-by-side. Affluent whites are heavily suburbanized; affluent African Americans are comparably rare in Milwaukee County suburbs, suggesting that suburban doors are closed to African Americans for reasons other than housing affordability.

The Milwaukee County Consolidated Housing and Community Development Plan notes that “[a]ll County municipalities have some percentage of its population with incomes below the poverty level. The City of Milwaukee has the highest percentage. Six HPA communities have a percentage of population below poverty that exceeds the HPA (South Milwaukee, St. Francis, West Allis, Shorewood, Cudahy and West Milwaukee).”

Further, “[e]ligibility for HUD programs is often determined by a household’s income as a percentage of County median income. Every community has a population eligible for HUD assistance, ranging from 15.5% (River Hills) to 58.3% (Milwaukee). Within the HPA, 35.4% of all households qualify for assistance. The percentage of eligible households in St. Francis (49.9%) and West Milwaukee (53.9%) approached that of the City (58.3%).”³³

Another source notes that, “[t]he African-American poverty rate in metropolitan Milwaukee is nearly seven times the rate for whites. Nationally, the rate is 3.1 times that of whites.”³⁴ Clearly, metropolitan Milwaukee’s employment and housing landscapes are working to much greater advantage for whites than for African-Americans.

County median incomes by race and ethnicity further illustrate this disparity. The 2000 US Census reported white household county median income (\$42,504) was significantly higher than that of black (\$24,920) and Latino (\$31,681) households in the

³³ Milwaukee County Consolidated Housing and Community Development Plan, 2005-2009

³⁴ Heinen, Tom. “Interfaith Conference plans new racial justice initiative,” Milwaukee Journal Sentinel, February 12, 2005.

County. Median county income of Asian households (\$39,338) was lower than that of white households, but still higher than the overall Milwaukee County median income (\$38,100)

Unemployment and the Spatial Mismatch

The unemployment rate in the City of Milwaukee runs over five percentage points higher than in the suburbs. The Consolidated Plan explains:

“Most of the area job growth took place in small firms located outside of the City, and even outside of the County. Most of these jobs, including many in heavy manufacturing, pay less than the manufacturing jobs that were lost. Lower paying job growth outside the City is producing change. Suburban employers, seeking employees, have turned to the City where a labor surplus exists. Commuting lower income persons have placed noticeable demands on transportation and transit systems. In the longer term, it is probable that demands for affordable housing in the communities where jobs are located will increase.”

The metropolitan Milwaukee labor market continues to suffer from a structural "spatial mismatch" between pockets of high unemployment (the City of Milwaukee) and locations of job growth (mainly, the suburbs). This disconnect exacerbates the concentration of poverty and highlights the need for desegregation activities on a regional level.

Unemployment in Milwaukee County is not a racially neutral phenomenon, especially in light of the poverty rates and the spatial mismatch described above. According to one study, “[r]acial disparities in unemployment continue to characterize the Milwaukee labor market. Among the cities and metropolitan areas surveyed by the U.S. Bureau of Labor Statistics, Milwaukee had the highest rates of African American unemployment in 2001, the most recent data available.”³⁵

³⁵ Levine, Marc, "Stealth Depression: Joblessness in the City of Milwaukee Since 1990," University of Wisconsin – Milwaukee, Center for Economic Development, 2003.

Transportation

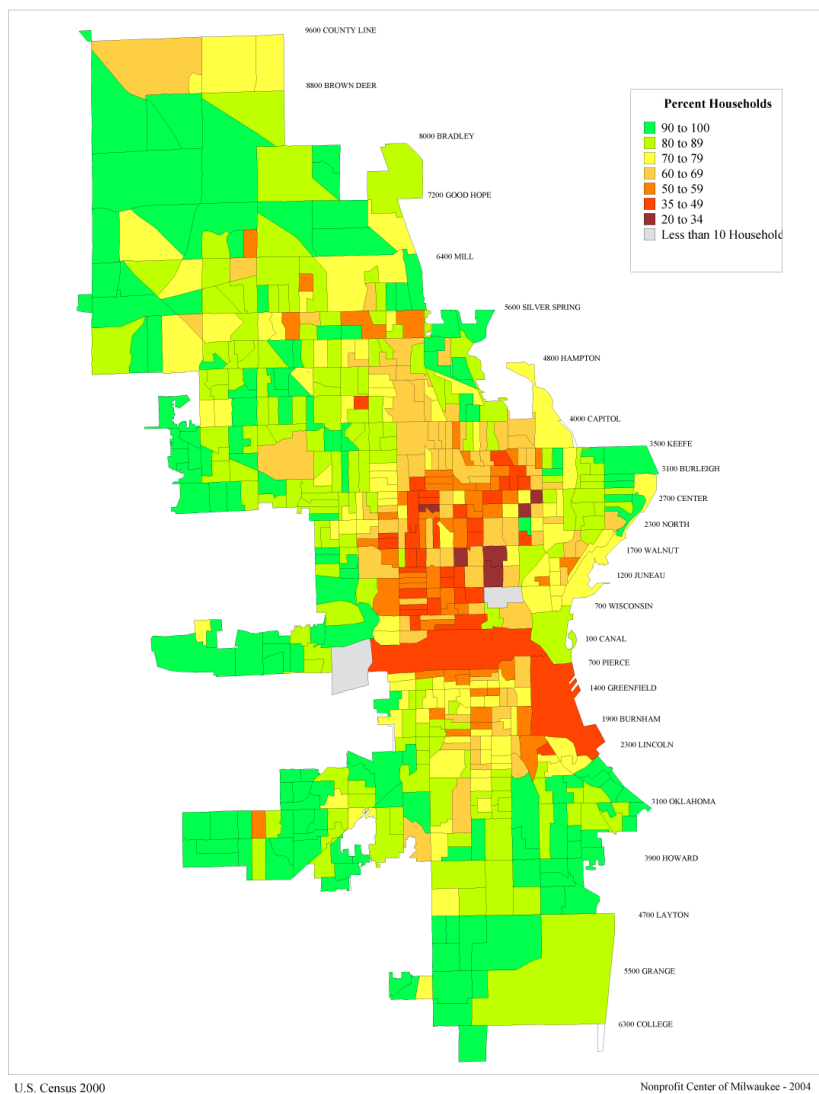
As noted above, all of the net job growth in metropolitan Milwaukee since 1995 has occurred in the suburbs, while a significant majority of the unemployed labor force lives in Milwaukee's central city. This becomes a fair housing issue in view of the fact that the central city is predominantly African American in population, yet 32.3% of Milwaukee's African American households do not own cars. This means that a significant portion of the African American population has limited access to the burgeoning job market in outlying communities. The County's Consolidated Plan asserts, "[t]he inability to live near where you work creates changes in and places demands upon transportation and transit systems in the short term, and over time can influence where housing locates. There are indicators that all of these are happening in the County."³⁶

Connecting this available labor force with available jobs would require either appropriately priced housing in these high job growth communities affordable to persons in those jobs, or some form of transportation connecting Milwaukee City residents to jobs. Currently the region's mass transit is not adequate to access jobs outside Milwaukee County, and is becoming even more limited as transit lines outside the County are cut.

³⁶ Milwaukee County Consolidated Housing and Community Development Plan, 2005-2009

Map 6: City of Milwaukee Households Owning Vehicles, 2000

PERCENT OF HOUSEHOLDS WITH AUTOMOBILES MILWAUKEE



Housing Supply Characteristics

Housing values in Milwaukee County are comparatively lower than in other areas. In 2000, the median value for a single-family owner occupied unit was \$100,500,³⁷ compared to \$119,600 for the United States and \$112,200 for the State of Wisconsin. The median values for the municipalities in the County's HPA range from \$91,900 in South Milwaukee to \$517,300 in River Hills.

Housing in the County is also older than the median age in other parts of the State or country. Over 31% of Milwaukee County's HPA housing was constructed before 1949; 34.4% was built between 1950 and 1969; and 34.2% was built after 1970. The median year that all structures were built in the County is 1954, compared with the Wisconsin median of 1965 and the United States median of 1971. In general, older housing stock is often less expensive, because it is more likely to be in disrepair or have greater maintenance needs, but it is also more likely to be inaccessible to persons with disabilities.

Table 3: Milwaukee County HPA, Housing Unit Size, 2000

	2000	
Bedrooms	Number	Percent
None	2,946	2.0%
1	21,915	14.5%
2	44,017	29.2%
3	60,379	40.0%
4	18,649	12.4%
5 or more	2,972	2.0%
Total	150,878	100.0%

³⁷ This median includes the City of Milwaukee housing values, which are significantly lower than the rest of the County municipalities. The City of Milwaukee median value in 2000 was \$79,600.

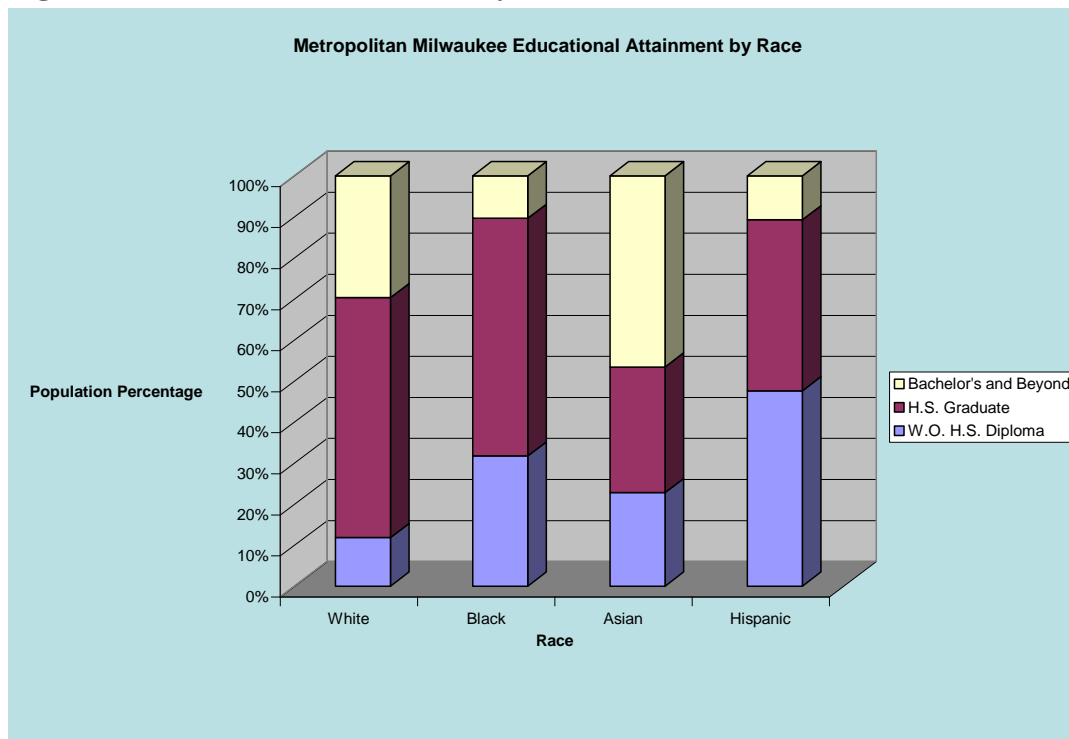
Table 4: Milwaukee County HPA, Housing Units by Year Structure Built, 2000		
Year Built	Number	Percent
Before 1940	32,307	21.4%
1940 to 1949	15,043	10.0%
1950 to 1959	30,957	20.5%
1960 to 1969	20,897	13.9%
1970 to 1979	21,492	14.2%
1980 to 1989	13,260	8.8%
1990 to 1994	8,279	5.5%
1995 to 1998	6,466	4.3%
1999 or later	2,177	1.4%
Total	150,878	100.0%

The HPA's housing is primarily composed of two- and three-bedroom units, which together make up 69.2% of the total housing units. The prevalence of two- and three-bedroom units is relevant given the need for larger housing units, particularly those of many larger minority families. The need for units with three and four bedrooms is a pressing one in the HPA.

Education

Of Milwaukee County HPA residents 25 and over, 88.2% were high school graduates in 2000, compared with 75% in the City of Milwaukee. Vast disparities in educational attainment are revealed when analyzed by race and ethnicity. For instance, Latinos (73.0%) and African Americans (74.1%) are significantly less likely to have a high school diploma than whites (88.8%). Asians (85.3%) are also slightly less likely than whites to have a high school diploma.

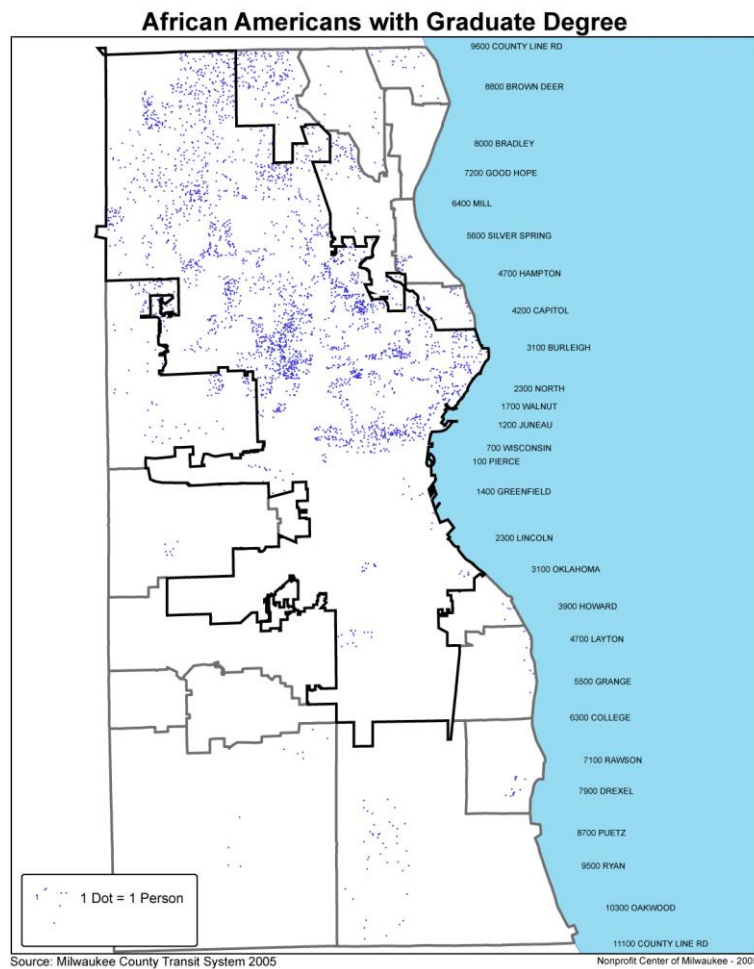
Figure 3: Educational Attainment by Race



Disparities in education are important to fair housing for several reasons. First, persons with less education tend to have lower incomes than those with more education. This reduces the range of housing available to such households. Also, persons with

less education are more likely to have very limited access to educational or financial resources that assist in purchasing a home or obtaining a loan.

Map 7: Milwaukee County, Where Highly Educated African Americans Live, 2000



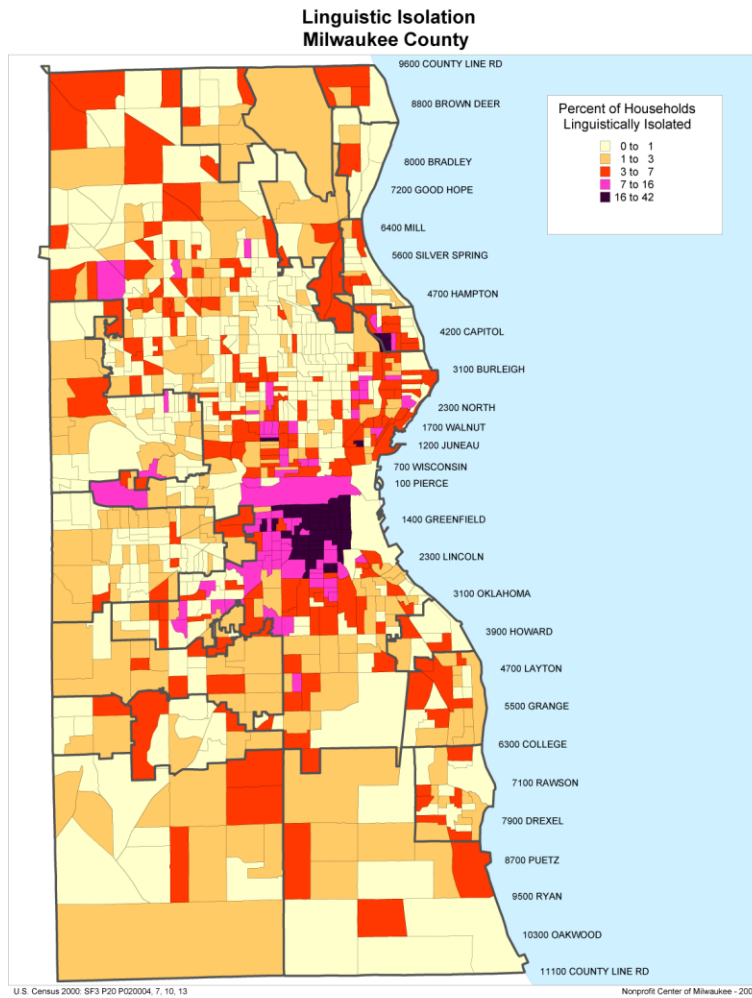
Map 7 indicates where Milwaukee County African Americans with college degrees live. Just as is the case for affluent African Americans, African Americans with college degrees are still racially segregated, showing that education levels aren't the barrier to the suburbanization of this population.

Linguistic Isolation

A household in which no one speaks English well is *linguistically isolated*. Linguistic isolation hinders a person's ability to integrate economically, academically and socially into our society and has stranded many non-English speakers in low-wage menial jobs.

As shown on Map 8, there are 46 census block groups in which 16-40% of the households are linguistically isolated, and all of these are located in the City of Milwaukee. These isolated block groups also coincide with block groups with higher concentrations of Latinos. A population that is both minority and does not speak English well may face discrimination based on national origin as well as challenges related to obtaining housing, like communicating effectively with a rental agent, real estate agent, mortgage lender or insurance agent.

Map 8: Milwaukee County, Linguistic Isolation, 2000



Fair Housing Impediments

As mentioned in this report's introduction, an *impediment* to fair housing is anything that may hinder or prevent a person from having equal access to housing because of membership in a federal or Wisconsin protected class. Impediments may take the form of a city or other governmental entity's policy, practice or procedure, housing industry practices, or other societal factors.

This section describes fair housing impediments identified through MMFHC's research and interviews with community representatives. Impediments are organized into three broad categories:

- Milwaukee County impediments,
- federal and State of Wisconsin impediments,
- private market impediments.

Some impediments fall under more than one of the above categories.



Impediments

Milwaukee County: Procedures, Policies and Practices

Impediment #1: Inadequate Fair Housing Ordinances

In order to complete a thorough analysis of impediments to fair housing choice in Milwaukee County, it was necessary to review each of the municipal and County ordinances that seek to protect individuals' rights to housing. It is important to note that the mere existence of a local fair housing ordinance is not sufficient to ensure that equal housing opportunities are realized within a community. The law must have broad protections, a viable enforcement procedure and remedies that will compensate victims and deter further acts of illegal discrimination. Although all of the eighteen local communities and Milwaukee County maintain fair housing ordinances, there is great divergence in the protections, remedies and enforcement mechanisms available to victims of illegal housing discrimination. Additionally, many of these laws, as currently written, are exceedingly limited to address housing discrimination and are, thus, a major impediment to fair housing throughout Milwaukee County.³⁸

This section will detail some of the more problematic aspects of the ordinances; because of space restraints, it is not possible to provide an exhaustive analysis of each. Listed below are some of the features of these ordinances, which create an impediment to fair housing in Milwaukee County.

Lack of Consistency Amongst the Ordinances

The importance of having strong countywide enforcement of the fair housing laws cannot be overstated. Unequal access to housing remains a major issue in Milwaukee County and in order to ameliorate it, there must be comprehensive remedies available at all levels of government. Local governments cannot abdicate their responsibility in bringing equal access to fair housing throughout the County. Strong and consistent laws throughout the County would send an important message that a housing market free from discrimination is a valued goal of policy makers and the general public as well. Conversely, weak

³⁸ For example, five communities reference the Wisconsin Open Housing Law in their ordinances. Three of those communities, Hales Corners, St. Francis and South Milwaukee, state that any amendments to the Wisconsin statute are also incorporated into their local laws, as well. The Hales Corners ordinance, however, does not pertain to the entire state law, only certain sections regarding definitions and practices prohibited under the law. St. Francis and South Milwaukee have ordinances that are similar (with the exception of penalties in St. Francis) to the Wisconsin law. The fourth community, West Milwaukee, did not include a clause regarding future amendments in their ordinance and the Wisconsin statute referenced has been amended and, in fact, no longer exists as cited. Therefore, the West Milwaukee ordinance is not similar to the existing Wisconsin law. Similarly, Bayside cites the wrong Wisconsin statute regarding practices that are prohibited under the ordinance.

and inconsistent laws send a chilling message that the communities neither value nor encourage equal access, opportunity or diversity.

The Milwaukee County Fair Housing Ordinance, as well as local ordinances for 18 suburban municipalities were examined as part of this report. It is clear these ordinances vary considerably in the protections, remedies and enforcement procedures contained within their respective ordinances. Moreover, many of the ordinances maintain provisions that are weaker and offer considerable less protection than either the Wisconsin or federal fair housing laws. For example:

- 7 of the municipal ordinances³⁹ and Milwaukee County's law fail to protect individuals on all 12 protected class categories covered under the state and federal fair housing laws.
- Practices prohibited under 17 of the ordinances do not conform to those protected under state or federal fair housing laws.⁴⁰
- All 19 ordinances stipulate penalties for violating the fair housing ordinances that are either significantly weaker than those under federal or state fair housing laws or are not specified.

Some Ordinances Fail to Provide Comprehensive Protection

As noted above, seven of the municipal ordinances fail to protect individuals on all of the twelve protected class categories covered under the state and federal fair housing laws. Cudahy, Fox Point, Franklin, Greenfield and Oak Creek fail to include family status as a protected class in their ordinances. Oak Creek's ordinance also does not include age and lawful source of income as protected classes. Fox Point does not include sexual orientation as a protected class. Glendale's ordinance is confusing, as in one section (15.3.1 "Statement on Fair Housing") it contains a list of protected classes, with the exception of family status. However, in a later section of the law (Section 15.3.2 "Definitions as Used in This Chapter"), the protected classes of age, lawful source of income, family status and sexual orientation are omitted. Whitefish Bay's ordinance, enacted

³⁹ Cudahy, Fox Point, Franklin, Glendale, Greenfield, Oak Creek and Whitefish Bay

⁴⁰ The ordinances for St. Francis and South Milwaukee state that the practices prohibited under the Wisconsin statute are adopted in the respective communities.

in 1967, does not include the protections by the state and federal laws for persons on the basis of sex, disability, age, marital status, lawful source of income, family status or sexual orientation.

Definitions of Persons Protected Under Some of the Ordinances Are Vague or Restrictive

Although most of the ordinances contain a list of classes (e.g., race, religion, color, national origin, etc.) protected by the law, most fail to include any definitions of such classes. Some protected classes may have commonly understood definitions of their meaning (e.g., sex), but others may not. It is an impediment to fair housing within a community when neither homeseekers nor housing providers can derive a clear understanding of their protections and rights under a local ordinance. Moreover, it can lead to restricted enforcement actions, as administrative agencies, Village Attorneys or local commissions are uncertain as to whether a particular allegation is covered under the law.

Eleven ordinances⁴¹ maintain local ordinances that require that an alleged act of discrimination be motivated only because of membership in a protected class. This requirement for proving a violation is overly restrictive and contradicts federal case law for proving a violation of illegal housing discrimination. Housing decisions are often made for multiple reasons. For example, a landlord may have rejected an application from an African American household because the landlord does not want to rent to African Americans and he legitimately questions the applicant's ability to pay. Courts have consistently ruled that in such "mixed motive" cases that an illegal reason need only be one factor considered by a housing provider to prove a violation of the law. Therefore, these overly restrictive burdens of proof impede enforcement actions and are, therefore, additional impediments to fair housing.

Seven of the ordinances⁴² also contain language which protects "marital status of the person maintaining a household". This provision is overly restrictive as it prohibits anyone other than a "head of household" from filing a claim. For example, if a married couple was denied housing because the housing provider only wanted single persons in a dwelling, only one member of the couple would have a claim under these ordinances.

⁴¹ Bayside, Brown Deer, Cudahy, Milwaukee County, Oak Creek, Franklin, River Hills, Shorewood, Wauwatosa and Whitefish Bay

⁴² Cudahy, Fox Point, Franklin, Glendale, Greenfield, Milwaukee County and Wauwatosa

Actions Prohibited Under Most of the Laws are Abbreviated and Inadequate

Both the federal and state fair housing laws contain a comprehensive list of actions that prohibited under their respective laws. This ensures that individuals are protected from discrimination in any stage of a housing transaction, as well as all facets of the housing industry. Unfortunately, those same protections are not provided by government entities throughout Milwaukee County. Although each of the ordinances maintains a number of prohibited practices, most of these are not inclusive enough to support an effective fair housing ordinance. For example, only eight of the ordinances⁴³ expressly prohibit the coercion, intimidation or interference of a person who has exercised their fair housing rights. This means, for example, if a Latino family moved into a predominantly white neighborhood and later experienced harassment by neighbors because of their race/national origin, they could not pursue a claim at the local level in twelve Milwaukee County suburbs. Failing to renew a lease or cause termination of tenancy because someone is a member of a protected class is illegal under only seven ordinances⁴⁴ in Milwaukee County and to falsely represent the availability of housing to a person because of their membership in a protected class is illegal under only six of the ordinances.⁴⁵ Protection for persons with disabilities is even less consistent among the ordinances, as described in the following section. In order to further fair housing throughout Milwaukee County, it is imperative that the ordinances provide comprehensive protection.

Most of the Ordinances Have Limited Protection for Persons with Disabilities

The majority of the ordinances lack adequate protection for persons with disabilities as demonstrated by the following examples:

- There is no definition of “disability” or “handicap” contained in thirteen of the ordinances.⁴⁶ This omission can create confusion and misinterpretation for both housing providers and consumers and limit housing opportunities for persons with disabilities. Both the state and federal fair housing law include definitions of “disability” that could be adopted by the communities to ensure persons with disabilities are afforded equal and open housing opportunities. Moreover, two

⁴³ Fox Point, Glendale, Hales Corners, Milwaukee County, Oak Creek, St. Francis, South Milwaukee and West Allis

⁴⁴ Fox Point, Hales Corners, Milwaukee County, Oak Creek, St. Francis, South Milwaukee and West Allis

⁴⁵ Glendale, Hales Corners, St. Francis, South Milwaukee and West Allis

⁴⁶ Bayside, Brown Deer, Cudahy, Fox Point, Franklin, Glendale, Greendale, Greenfield, River Hills, Shorewood, Wauwatosa, West Milwaukee and Whitefish Bay

ordinances⁴⁷ define “handicap” as a “physical or developmental disability.” This definition is more restrictive than either federal or state fair housing laws which afford protection to persons with physical and mental impairments.

- Only four of the ordinances⁴⁸ contain a provision that would permit persons with disabilities to make reasonable modifications of existing housing to allow full use and enjoyment of the housing. Such a provision, found in both federal and state fair housing laws, ensures that persons with disabilities may make modifications to the premises, such as a ramp to the outside door of a building for persons who use a wheelchair or a strobe light to alert persons with hearing impairments of emergency situations within a building. There is well-established federal case law as to the protections and rights under this provision of the law.
- The same four ordinances are the only ones that allow for the provision of reasonable accommodations in rules, policies, practices or services to permit persons with disabilities full use and enjoyment of housing. Such accommodations might include a designated parking space to allow a tenant with a disability closer and easier access to the building. This opportunity for persons with disabilities to obtain such accommodations is contained in both state and federal fair housing laws and there is well-established case law in this area.
- Only three ordinances⁴⁹ protect persons with disabilities who need animals to assist them. The state and federal fair housing laws have provisions that ensure protection for persons in need of such assistance animals.
- Requirements that housing be designed and constructed to ensure accessibility for persons with disabilities are absent in 17 ordinances.⁵⁰ The absence of this portion of the law means that it is not a violation under these ordinances to build a multifamily development in which doors are too narrow for persons in a wheelchair or multiple steps at an entrance door. Both the federal and state fair housing laws include such requirements.

⁴⁷ Milwaukee County and Oak Creek

⁴⁸ Hales Corners, St. Francis, South Milwaukee and West Allis

⁴⁹ St. Francis, South Milwaukee and West Allis

⁵⁰ Because St. Francis and South Milwaukee’s ordinances incorporate all amended provisions of the Wisconsin statute, these are the only communities that afford such protection.

The omission of these protections can send a chilling message to persons with disabilities throughout the County regarding the level of concern for furthering housing opportunities for persons with disabilities. These omissions are particularly egregious, as enhanced protections for persons with disabilities have been contained in the federal law since 1988 and the state law since 1992.

Ordinances Do Not Prohibit Discrimination in All Areas of the Housing Market

Most of the ordinances do not provide comprehensive protection against discrimination in all areas of the housing market. As discussed below, some housing industries are not included in some ordinances, contrary to protections afforded in both state and federal fair housing laws.

Discrimination in the homeowners insurance market has gained much attention over the past several years. Lawsuits and administrative complaints against some of the largest providers of homeowners insurance in Milwaukee, Toledo, Richmond, Philadelphia and Washington, DC have revealed widespread forms of discrimination against minority homeowners. Twelve of the ordinances⁵¹ do not prohibit discrimination within the insurance industry, thus, failing to protect their residents from this form of discrimination. Homeowners insurance is a critical necessity to protect the economic wealth of residents and preserve the viability of neighborhoods. The absence of protection against such discrimination leaves residents, and neighborhoods, vulnerable to loss of homes and instability.

Secondly, although the majority of ordinances explicitly prohibit the refusal to finance housing, only nine communities⁵² expressly make it illegal to discriminate in the terms, conditions or services of such financing. This omission is particularly problematic in view of the increasing incidence of predatory lending, whereby people are not refused financing for their homes, but the terms and conditions of the loan may be less favorable, due to the race, age or gender of the homeowner. The fifteen remaining ordinances, as currently written, may not provide protection for persons victimized by such practices.

⁵¹ Bayside, Brown Deer, Cudahy, Fox Point, Franklin, Glendale, Greendale, Greenfield, River Hills, Shorewood, Wauwatosa, West Milwaukee and Whitefish Bay

⁵² Fox Point, Glendale, Greenfield, Hales Corners, Milwaukee County, Oak Creek, St. Francis, South Milwaukee and West Allis

Testing is Illegally Prohibited in Two Communities

The communities of Oak Creek and Whitefish Bay have ordinances which expressly prohibit testing. Testing has been used to investigate and prove allegations of housing discrimination for decades and has been recognized by federal courts throughout the nation, including the U.S. Supreme Court, as a legal method to assist in the enforcement of the fair housing laws. Attempts by government entities to prohibit testing have been struck down by the courts, most notably in a 1975 federal court decision, *United States v. State of Wisconsin*. In that case the Court determined that a State law which prohibited testing “chills the exercise of the right to equal housing opportunity” and “is an obstacle to the accomplishment of the principal objective of Congress in passing the Fair Housing Act, that is, to provide fair housing throughout the United States.”

Therefore, these prohibitions are not only illegal, but send a chilling message to the community about the barriers these communities have erected to fair housing enforcement. These ordinances are, therefore, impediments to furthering fair housing within Milwaukee County.

Enforcement Powers are Limited or Unclear in the Ordinances

Fair housing ordinances in Milwaukee County vary greatly in the method and scope of enforcement mechanisms. Bayside’s ordinance does not specify any enforcement procedures or protocols. Eight ordinances⁵³ specify that the village/city attorney will issue a complaint, if sustainable in court. However, in the absence of further explanation or clarification, victims of housing discrimination will, most likely, find this language ambiguous and vague, as it is not clear what the process requires or entails. Milwaukee County’s ordinance, on the other hand, is more explicit in delineating the steps and options the Corporation Counsel may take in remedying a violation.

In addition to lack of clarity in their enforcement procedures, some ordinances delegate enforcement of the fair housing ordinance to entities or parties that do not have the training or expertise to carry out those responsibilities. For example, Brown Deer and River Hills ordinances state that enforcement will be administered and enforced by the village manager (who

⁵³ Cudahy, Franklin, Greendale, Greenfield, Hales Corners, Oak Creek, Shorewood and Wauwatosa

may also refer cases outside the local jurisdiction to the Wisconsin Equal Rights Division). The St. Francis ordinance assigns responsibility for the enforcement of the fair housing ordinance to the building inspector (a position that typically does not have the training or expertise to enforce fair housing laws). Another example is the City of Glendale's ordinance that states that the Common Council (or its representatives) receives and resolves complaints.

West Milwaukee's ordinance contains no provisions for enforcement actions at the local level, only that the village clerk will assist someone in the filing of a complaint with the State Department of Commerce (which does not enforce the Wisconsin Open Housing Law). This approach is not only an abdication of local enforcement responsibility, but specifies a referral to a state department that does not have responsibility for enforcement of fair housing laws.⁵⁴ Other ordinances more correctly cite referrals to the Wisconsin Equal Rights Division, but this still represents an abdication of local responsibility, as local jurisdictions should maintain the authority to enforce their own ordinances.

Fox Point, West Allis and Whitefish Bay ordinances all state that the local fair housing board/commission is delegated the responsibility to receive and investigate complaints. It is unclear whether these commissions are active in each communities and the extent of their expertise, authority or power.

Many of the Ordinances Provide Negligible or Unspecified Penalties for Violations of the Law

Twelve of the ordinances⁵⁵ do not specify the amount of penalties that may be imposed. None of the seven remaining ordinances in Milwaukee County, however, contain penalties that are as stringent as those under federal or state fair housing laws. For example, neither the federal or state laws mandate a minimum penalty, but specify only the maximum penalties that may be ordered. Yet, seven of the ordinances stipulate a minimum civil forfeiture, which range from \$1.00 in Franklin to \$100 in the Milwaukee County and West Allis ordinances. In terms of maximum penalties, the state law stipulates a range of \$10,000 for a first offense to \$50,000 for a third offense. The civil penalties available under the federal law are \$16,000 for a first offense to \$65,000 for a third offense. In contrast, the maximum penalty for violating a person's right ranges from \$200 in Fox Point to \$10,000 in Milwaukee County and West Allis.

⁵⁴ The Wisconsin Department of Workforce Development Equal Rights Division is the agency responsible to enforce the Wisconsin Open Housing Law.

⁵⁵ Brown Deer, Cudahy, Glendale, Greendale, Hales Corners, Oak Creek, River Hills, Shorewood, St. Francis, South Milwaukee, Wauwatosa and West Milwaukee

Civil forfeitures are intended to punish a violator of the law and deter further illegal conduct. The abysmally low penalty ranges in these ordinances accomplish neither purpose. Such minimal fines may discourage victims of housing discrimination from pursuing claims under the ordinances, as no real redress will be achieved. Further, these limited forfeitures send a message to the public that the communities do not regard the deleterious effects of illegal housing discrimination on individual victims, as well as the community at large.

*Under Most of the Ordinances, Victims of Illegal Housing Discrimination Can Obtain neither Compensatory nor Injunctive Relief*⁵⁶

In addition to the inadequate penalties under these ordinances, the vast majority of the laws do not allow victims to recover compensatory damages. Therefore, victims may not be compensated for out-of-pocket expenses incurred or for the emotional duress experienced as a result of the discriminatory act. Additionally, with the exception of Milwaukee County, South Milwaukee and West Allis, the ordinances contain no provision for injunctive relief. Both federal and state fair housing laws include these forms of relief for victims as a way to help the person recover true and comprehensive relief for the injury of discrimination. They are essential components for a fair housing law to have meaningful and effective impact in the community. The absence of any clear remedy is an obvious disincentive for persons to utilize these laws to redress discrimination in housing.

Statutes of Limitations May Prevent Complaints from Being Filed Under Some Ordinances

Fourteen of the ordinances⁵⁷ do not specify a statute of limitations within which a complaint must be filed with a local designee. West Allis requires a complaint be filed within 180 days of the alleged act of discrimination, whereas Glendale stipulates a complaint must be filed within 30-60 days of the alleged act of discrimination. These laws have an exceedingly short period of time to file complaints – shorter than either federal or state laws. A longer statute of limitations is important for several reasons. First, discrimination in today's housing market is increasingly subtle and difficult to detect. Therefore, it may

⁵⁶ The West Allis ordinance provides for both compensatory and injunctive relief. The Milwaukee County ordinance allows for the filing of an injunction in circuit court by the corporation counsel.

⁵⁷ Bayside, Brown Deer, Cudahy, Fox Point, Franklin, Greendale, Greenfield, Hales Corners, Oak Creek, River Hills, Shorewood, Wauwatosa, West Milwaukee and Whitefish Bay

be many months after an act of discrimination before individuals may learn that they were the victims of an unlawful act. Secondly, some people are unaware of their legal rights in housing and may obtain that knowledge some time after the act of discrimination. Thirdly, some people who are in the home seeking process are in dire situations to secure housing for their family and may not have the time or resources during their search to file a complaint. Therefore, an extended time period to file a complaint may assist them in doing so. Lastly, both federal and state law allows persons to file administrative complaints within one year of the alleged act of discrimination. The longer time period to file complaints under those laws is another disincentive for persons to file with the local municipalities.⁵⁸

Local Government Staffs Are Not Adequately Trained About the Fair Housing Ordinance

As critical as it is for local entities to have a comprehensive and effective fair housing ordinance, it is equally as important that victims of housing discrimination have access to use those laws to remedy those unlawful acts. This means that persons who seek assistance from those government entities receive the proper information and direction. In order to assess the level and extent of such assistance provided by the local governments, telephone calls were made to each of the nineteen government offices by a person had encountered illegal housing discrimination within the respective community.

Of the nineteen inquires made, only four communities⁵⁹ directed the caller to the proper resource within the local government for formally filing a complaint. The remaining fifteen entities referred the caller to resources outside the local jurisdiction for adjudication of the complaint. Of those fifteen, only five (including Milwaukee County), however, were made to sources that actually could provide assistance to a victim of housing discrimination. Specifically, 3 municipalities⁶⁰ referred callers to the Metropolitan Milwaukee Fair Housing Council (MMFHC), without apprising the caller of local enforcement mechanisms to redress their discrimination claim. The City of Glendale referred the caller to the Wisconsin Equal Rights Division, but erroneously provided the telephone number of MMFHC, again failing to advise of any local options for pursuing the complaints.

⁵⁸ Milwaukee County's ordinance mandates the filing of complaints within 300 days of the act of discrimination.

⁵⁹ Brown Deer, Fox Point, Greenfield and West Allis

⁶⁰ Hales Corners, Oak Creek and West Milwaukee

Seven of the municipalities⁶¹ provided referrals to agencies or organizations that do not provide information or assistance on housing discrimination issues. Those referrals were made to the Wisconsin Department of Consumer Protection, “Landlord-Tenant Hotline”, Community Advocates, the American Civil Liberties Union, and the local Police Department. Callers were also told to call Milwaukee County (with no specific department or telephone number to call), the Milwaukee Bar Association and the City of Milwaukee.

Furthermore, callers were told at 8 different municipalities that there was nothing to be done at the local level of government, although each of these communities has fair housing ordinances. One caller was even provided erroneous and potentially discouraging advice when told it was a landlord’s prerogative to do what they wanted in renting their units.

For any community to further fair housing, it is imperative that persons who have experienced illegal housing discrimination within that community be provided accurate information and assistance.

Impediment #2: Absence of a Commitment to Enforce the Requirement to Affirmatively Further Fair Housing by Milwaukee County’s Community Development Block Grant Program

Milwaukee County’s Community Development Block Grant program received \$1.75 million for 2008. Of that, \$716,902, or 41% of the total grant, is redistributed to the participating municipalities in the County (all except the City of Milwaukee, which receives its own funds). Each of these communities must abide by a federal requirement in order to receive these funds – the requirement to “affirmatively further fair housing”. Milwaukee County does not adequately meet this federal requirement.

The extent of the “affirmatively further fair housing” (AFFH) obligation has never been defined statutorily. However, HUD defines it as requiring a grantee to:

1. Conduct an analysis to identify impediments to fair housing choice within the jurisdiction,
2. Take appropriate actions to overcome the effects of any impediments identified through the analysis, and

⁶¹ Bayside, Cudahy, Franklin, Greendale, Shorewood, Wauwatosa and Whitefish Bay

3. Maintain records reflecting the analysis and actions taken in this regard.

HUD interprets those broad activities to include:

- Analyze and eliminate housing discrimination in the jurisdiction
- Promote fair housing choice for all persons
- Provide opportunities for inclusive patterns of housing occupancy regardless of race, color, religion, sex, familial status, disability and national origin
- Promote housing that is structurally accessible to, and usable by, all persons, particularly persons with disabilities
- Foster compliance with the nondiscrimination provisions of the Fair Housing Act

Legislative changes in HUD programs and subsequent HUD program regulations require Community Development Block Grant grantees to certify that they will affirmatively further fair housing as part of the obligations assumed when they accept HUD program funds.

Some examples of “affirmatively furthering fair housing” provided on HUD’s website include:

- Establishing fair housing enforcement organizations in areas where there are no such organizations;
- For public housing agencies, starting a counseling program to help housing choice voucher recipients to find housing outside of minority and/or poverty concentrated areas;
- Outreach to housing providers in non-minority and poverty concentrated areas;
- Marketing available housing to persons less likely to apply for housing in a metropolitan statistical area;
- Encouraging banks and other lending organizations to operate in areas that are underserved and to provide services to underserved populations; and
- Encouraging banks and other lenders to use non-traditional methods for evaluating credit and loan amount terms, based on cultural differences and other individual factors.⁶²

⁶² See HUD, <http://www.hud.gov/offices/ftheo/promotingfh.cfm>

On an annual basis, Milwaukee County reports to HUD what each of those participating communities' actions was to "affirmatively further fair housing". The County's report for 2007 included activities such as: including information about the community's fair housing ordinance in their newsletter, hosting rental management seminars, a link to MMFHC's website from the community's website, a fair housing poster contest and attendance at the Wisconsin Fair Housing Network's annual luncheon.

While each of these tasks has some level of merit, they accomplish very little in the way addressing the serious issues of fair housing and segregation in Milwaukee County. Segregation was created with very deliberate institutional policies and its effects cannot be reversed by posting an ordinance or conducting a poster contest. In short, Milwaukee County does not fulfill HUD's requirement to affirmatively further fair housing.

Impediment #3: Lack of Housing Units Accessible to Persons with Disabilities

While County and other municipalities' policies may not be directly responsible for the shortage of accessible housing, local policy can and should be used to address this shortage.

There is a wide range of physical disabilities that can impede access to housing. Ensuring an adequate supply of accessible housing to meet the needs of persons with disabilities must be a countywide goal. While the actual number of accessible private housing units is not available, the strong need for such housing is apparent. As mentioned in the Demographics section, nearly 25.1% of Milwaukee County's HPA population has a disability (including physical disabilities, mental disabilities, mobility disabilities and "other").

Milwaukee's HPA has a large proportion of older housing stock; nearly 52% of the County's housing was built in 1959 or earlier. Older housing units are less likely to be accessible to persons with physical disabilities and are more likely to have narrow hallways, small bathrooms, and steps; however, they are also more likely to be affordable. Newer dwellings are more likely to be accessible, but are typically less affordable. This is a critical point, because as noted above, a disproportionate number of persons with disabilities have low income.

When the Federal Fair Housing Act was amended in 1988, “disability” was added as a protected class. Moreover, the 1988 amendment required multifamily residences built for first occupancy after March 13, 1991 to have a variety of basic accessibility features, such as doorways and hallways of a certain width, an accessible entrance, accessible environmental controls. Over 88% of Milwaukee County’s housing was built in 1990 or earlier, and therefore is not required to meet federal accessibility guidelines, unless the property is multifamily and federally funded or financed, or unless it is multifamily and significantly renovated.⁶³

In addition, approximately 16.3% of Milwaukee County’s HPA households were headed by individuals 60 and older. Frequently, homes owned by the elderly need to be made accessible, as many older adults have mobility impairments leading to difficulty entering and leaving their homes as well as moving efficiently inside them.

Impediment #4: Inadequate Affordable Housing Supply

The prevalence of affordable units in City of Milwaukee far outweighs that of the suburbs. The County median rent for a two-bedroom apartment in 2000 was \$555. This median is skewed toward the affordable end of the spectrum because it includes the rents in the City of Milwaukee (\$527 median rent) which has more rental housing units than the HPA and is significantly more affordable than most communities in the County. Other HPA communities with relatively low rent median rents include St. Francis (\$490), West Milwaukee (\$505), Cudahy (\$542), South Milwaukee (\$569), and West Allis (\$571). Persons with low and moderate income have fewer geographic options because of economic limitations.

A shortage of affordable housing may not appear to be a fair housing issue on its face. However, the negative impact that lack of affordability has particularly on persons with disabilities, people of color, families with children or the elderly cannot be ignored. An adequate supply of affordable housing, both for ownership and rental, is essential for an open and inclusive housing market in metropolitan Milwaukee. Regarding affordability, Milwaukee County’s Consolidated Plan states:

⁶³ The State of Wisconsin Open Housing Law requires properties with renovations of their 25% or more square footage to be made accessible.

“The median value of owner occupied housing is compared to each community’s median household income, using a standard value of house value not exceeding 2.5 times income (or 40% of income spent for housing). While this measure is simplistic and does not account for any number of mitigating factors, it demonstrates that in only 4 HPA communities (Brown Deer, Franklin, Glendale, Whitefish Bay) does a household with a community’s median income have the ability to afford a median value house in that community.

If the same approach is used to measure the ability of a household of 4 at 80% of County median income – the eligibility standard used for HUD programs – to afford a median value house, the number of HPA communities increases to 6 (Brown Deer, Cudahy, St. Francis, South Milwaukee, West Allis and West Milwaukee). 80% of County median income exceeds some community median incomes. If a household of 3 at 80% of median is examined, the number of communities reduces to 4 (Cudahy, St. Francis, West Allis and West Milwaukee). For a household of 2, only in West Milwaukee is a median value unit affordable.”

As shown on Map 10, the most affordable housing (not taking *housing quality* into account) is concentrated in the City. The County Consolidated Plan adds, “[e]xperience in the County’s Rent Assistance Program indicates that rents are increasing in some HPA communities faster than in others. 2000 Census data show that the median rent in 13 HPA communities exceeds the 2000 Fair Market Rent for 2-bedroom units. Rent Assistance will be more difficult to accomplish in these communities.”

Given the huge City and regional income disparity between whites, blacks and Latinos discussed in a previous section, as well as the location of racial concentrations shown on dot density Maps 1-4, we can conclude that the concentration of affordable housing contributes to racial segregation.

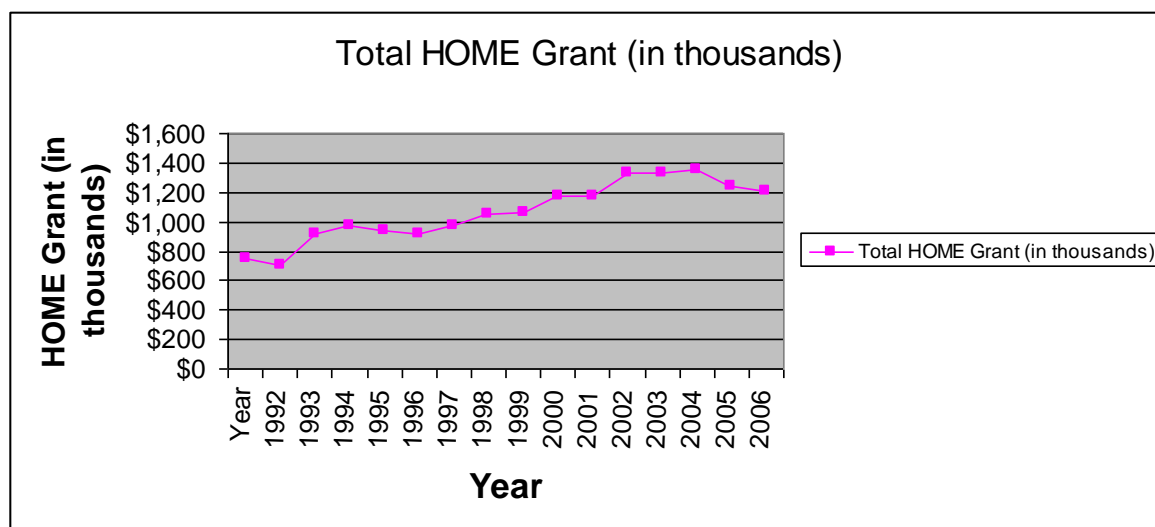
The Lack of Financial Resources to Build, Preserve, and/or Rehabilitate Affordable Housing

The shortage of affordable housing is attributable, in part, to a lack of resources to build and preserve such units in Milwaukee County. County HOME funds are used to build, preserve and rehabilitate housing in the County’s HPA. However, the demand for these resources exceeds their availability. Constructing any type of affordable housing requires numerous subsidies. This layering of subsidies is common in affordable housing projects and is necessary to close financing gaps. Most

developers currently obtain financing by combining federal money disbursed through local and state governments, HOME grants or loans, and the Low Income Housing Tax Credit (LIHTC) program. In addition to this very complex nature of financing, the development of affordable housing is also highly competitive. When financing and subsidy resources are scarce and a higher return on investment is unlikely, many developers prefer to build simpler and more profitable market rate housing developments.

Complex financing arrangements make the development of affordable housing difficult, and this situation is exacerbated by the fact that already inadequate funding sources are decreasing. The Milwaukee County Department of Administrative Services and its Economic and Community Development Division received approximately \$1.2 million in 2007 for affordable housing projects through federal HOME funds. County HOME dollars peaked in 2003 but have declined by 9.2% since then. See Figure 5.

Figure 4: Milwaukee County Federal HOME Program Grants, 1992-2006



Structural Quality and Overcrowded Housing

While Milwaukee County has housing that is *affordable* to those at middle income levels, and even some to those at lower incomes, the condition of that housing is often not taken into account.

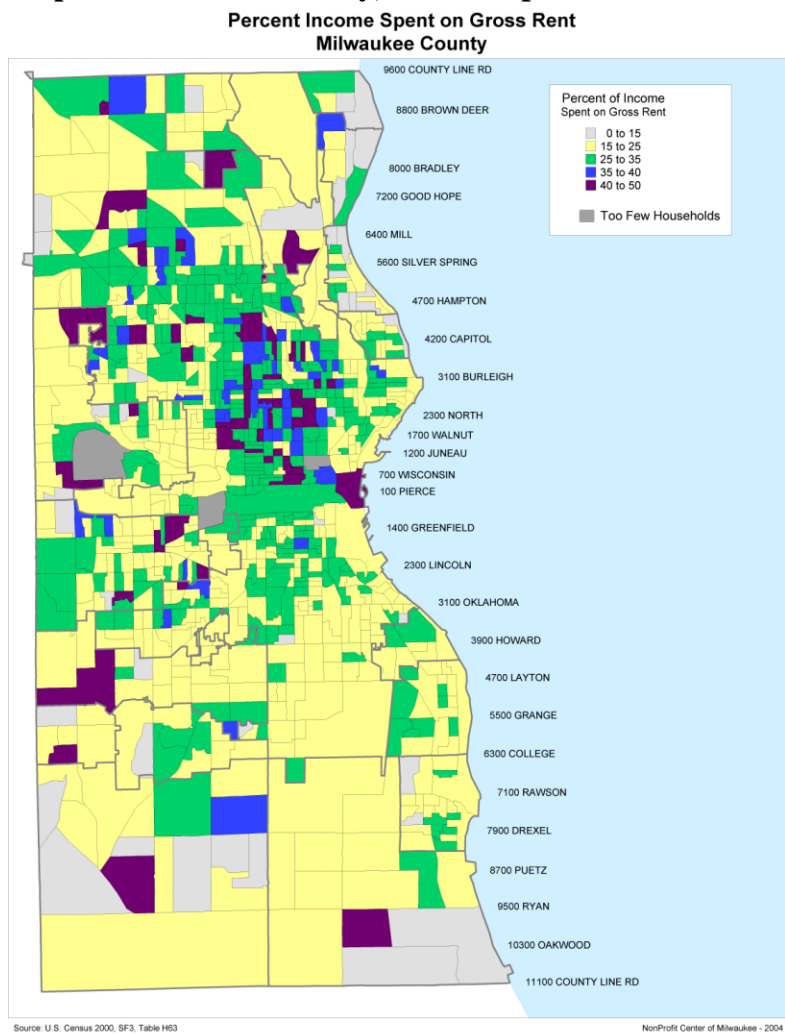
The age of a housing unit is not an absolute predictor of housing quality. However, it can be assumed that the older the housing structure, the greater the likelihood of code compliance problems. According to the County Consolidated Plan, “[i]n 7 HPA communities, almost a third or more of the owner occupied housing is 50 or more years old. Applicants to the County’s Home Repair Program utilize or exceed the available funding. Eight HPA communities (Cudahy, Glendale, Greenfield, Oak Creek, South Milwaukee, Wauwatosa, West Allis and West Milwaukee) have funded home rehab programs geared to low income owners.”⁶⁴

The U.S. Census defines *overcrowded* as a household that has more persons than the number of rooms it occupies. Although average household size declined, there was an increase in the number of households living in overcrowded housing. In 2000, 1.3% of the County’s HPA households were overcrowded.

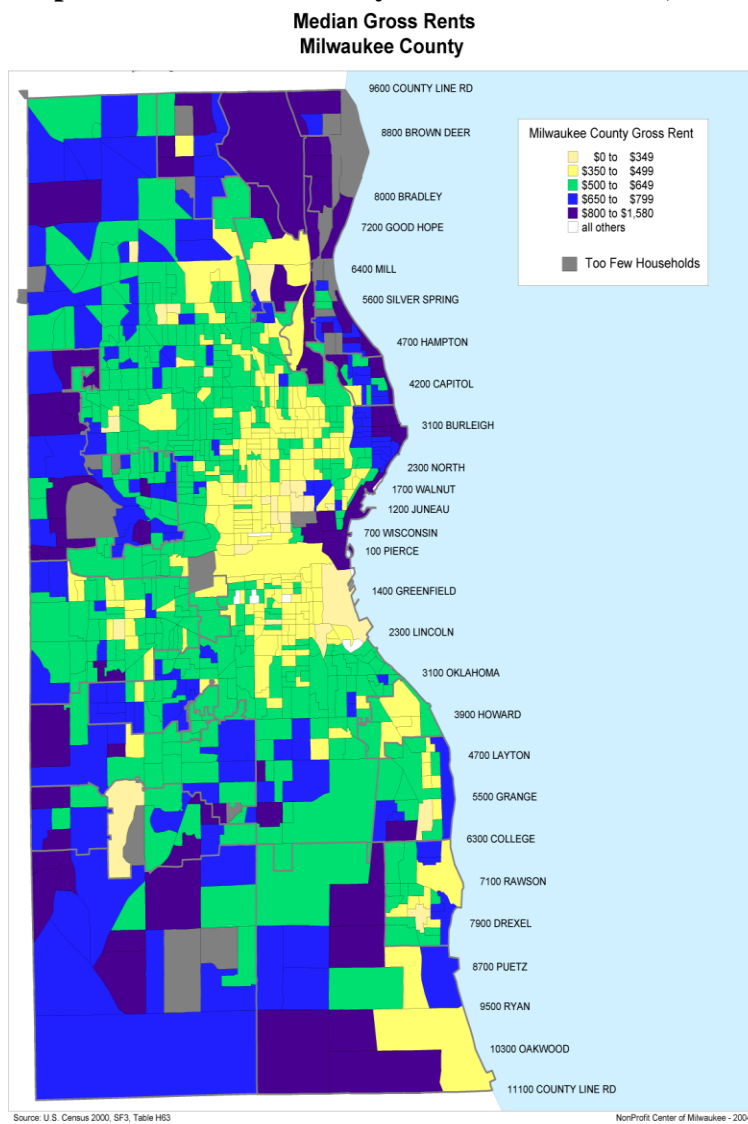
Housing that is overcrowded or of poor structural quality has negative health and socioeconomic implications for the people who reside in such conditions. Further, some people who are “doubled up” in overcrowded households may not be on the unit’s lease, and thus particularly vulnerable to eviction and homelessness.

⁶⁴ Milwaukee County Consolidated Housing and Community Development Plan, 2005-2009

Map 9: Milwaukee County, Percent Spent on Gross Rent, 2000



Map 10: Milwaukee County Median Gross Rent, 2000



Impediment #5: Inadequacies within the Milwaukee County Rent Assistance Programs

Unlike many Rental Assistance programs, Milwaukee County's Rent Assistance program is an "agency" unto itself, not a program of a housing authority. The Rent Assistance program does not operate any public housing, only the Housing Choice Voucher program.

Lack of Housing Choice Section 8 Rent Assistance Vouchers

Based on demand for the Rent Assistance vouchers in the County, the inability to find suitable, quality affordable housing is a serious issue for many. The County's Section 8 program is currently assisting 2,014 families with vouchers. The last time the County's waiting list opened up was September 2001. At that time 9,561 households (either single persons or families) registered to be mailed an application, 7,042 returned their applications. The waiting list as of November 2007 consisted of 5,740 households.

Impediments to Participation in the Section 8 Housing Choice Voucher Program

Limited participation by housing providers in the Section 8 program is an obvious impediment to expanding housing choice in the area. Neither the Federal Fair Housing Act nor the Wisconsin Open Housing Law consider the Section 8 program a part of the "source of income" protected class; therefore landlords are not required to rent to tenants participating in that program. The County's Rent Assistance program addresses this issue to some degree by giving families more flexibility in their timeline to find housing than permitted by many other housing agencies.

Segregation of Subsidized Housing

Even though the Housing Choice Voucher program is countywide, 80% of the vouchers are utilized in the City of Milwaukee. Reasons for this trend include lower rents in the City and discrimination. In an attempt to counter this trend, the County's Rent Assistance program allows participants to use their housing choice vouchers for housing with rents up to 110% of HUD rent guidelines. This means that the County agency helps fewer families, but those helped have greater choice regarding the community they live in.

Exclusionary Public Housing or Section 8 Rent Assistance Voucher Program Elsewhere in the County

Public housing or Section 8 rent assistance vouchers are the only possible forms of access to affordable housing in some municipalities. Many predominately white suburban housing authorities restrict the availability of public housing and vouchers to residents of that community. By restricting these programs to current residents, these policies effectively prevent regional mobility and exclude participation by people of color, which comprise such a small proportion of suburban populations. This is a prime example of policies that have racially discriminatory effects. The intent of such policies may not necessarily be to prevent participation by nonwhites in these programs, but the result has a discriminatory impact on those populations.

Impediment#6: Milwaukee County Lacks Monitoring of Mortgage Lenders and the Community Reinvestment Act (CRA)

With the recent tightening of loan underwriting standards, low income and minority populations, which have historically been the most underserved populations, will be less able to get a home mortgage. Currently the County has no official mechanism to monitor banks' performances in serving these communities, but if the County wishes to ensure healthy neighborhoods with quality access to credit, it must begin to analyze the behavior of financial institutions in light of the CRA's requirements.

The Community Reinvestment Act defines the responsibilities of financial institutions to provide equal treatment to all communities for which they are chartered, including low and moderate income communities. According to the National Community Reinvestment Coalition, enforcement of the CRA requires not only federal agencies' oversight, but also the vigilance of citizens, neighborhood organizations and local government.

Impediment #7: Zoning as an Impediment: Group Homes, Community Based Residential Facilities, and Community Living Arrangements

Under State of Wisconsin law, Community Living Arrangements (CLAs) or Community Based Residential Facilities (CBRFs) refer to residences where 5 or more unrelated adults reside, in which care, treatment or services above the level of room and

board but not including nursing care are provided to persons residing in the facility as a primary function of the facility. Milwaukee County does not have zoning authority over the approval of CLAs' or CBRFs' placement. Each municipality within the County engages in this activity independently.

Various aspects of regulating CLAs through zoning can have fair housing implications. Some communities have instituted a policy against having a CLA within 2,500 feet of another CLA. Advocates of persons with disabilities have said that the intent of the 2,500-foot law is to prevent the ghettoization of group homes, but instead results in an impediment to group home siting. The City of Milwaukee has been the defendant in at least one lawsuit regarding their CLA group home ordinance. The City has since removed the 2,500 foot rule from their ordinance. At the time this report was written, no Milwaukee County municipalities were found to be actively enforcing this aspect of their ordinance.

The City of Glendale, however, recently promulgated some zoning restrictions that are more restrictive than any State of Wisconsin CLA regulations or national fire codes regulating group homes (such as requirements for sprinkler systems, parking regulations and employee reporting requirements). Critics of this ordinance believe Glendale has included these restrictions in order to create impediments to the location of group homes within their community.

Impediment #8: Illegal Actions of Milwaukee County Municipalities: Fair Housing Litigation

According to a legal expert in the field of fair housing land use, “[m]any municipalities are unaware of their obligations and potential liabilities under local, state and federal fair housing laws and take actions that violate them – especially in the planning, siting and construction of multifamily rental housing. If multifamily rental housing is also planned as affordable housing, community resistance often arises. Multifamily rental housing – especially affordable housing – is commonly equated with a lower income and/or minority population. Most objectors to this type of housing are sophisticated enough not to use overtly racist language, but that does not diminish the pressure for a zoning jurisdiction to reject a multifamily proposal.”⁶⁵

⁶⁵ Ahrens, Gary; “Fair Housing Restrictions on Municipal Action”, Wisconsin Real Estate Magazine, www.news.wra.org, April 2007

Community objections notwithstanding, municipal land use restrictions that have the effect of barring or limiting development of multifamily housing and/or affordable housing may violate the federal Fair Housing Act (FHA). The FHA prohibits actions that make housing unavailable or otherwise deny housing to minorities, people with disabilities and families with children. Municipalities are subject to suit by developers and can be subject to injunctions and liable for lost profits, damages and attorneys and expert witness fees if an FHA violation is found. Four examples of such cases follow.

Village of Brown Deer

In September 2003, the United States Court for the Eastern District of Wisconsin “decided that the Village of Brown Deer, Wisconsin, had violated the FHA by using a 1973 covenant limiting multifamily units to two bedrooms as a reason to deny Brisben Company, a national developer of affordable housing, a hearing on a conditional use permit for a multifamily affordable housing development that included three-bedroom units.”⁶⁶

This decision confirmed “that a two-bedroom limitation is a device to turn away families with children. In fact, the restrictive covenant was frank about its goal. It began with the words, ‘The developer agrees to limit the number of children...’ and then proceeded to list things the developer promised to do towards that end, including limiting the number of bedrooms.”⁶⁷ Census data show “that minorities and/or families with children are more likely to need and seek out multifamily rental housing and/or affordable rental housing. Brisben used such data to claim that Brown Deer had additionally violated the FHA because Brown Deer’s action making affordable multifamily rental housing unavailable adversely and disparately impacted both minorities and families with children. The Court denied Brown Deer’s motion challenging this claim, thus indicating that this was also a viable claim. After the Court’s decision, the parties mediated a settlement whereby Brown Deer paid the developer \$1,550,000 in compensation.”⁶⁸

South Milwaukee

In January 2006 a coalition of three legal assistance programs filed papers in federal court asking U.S. District Judge Charles Clevert to allow them to intervene in a Fair Housing Act and Americans with Disabilities Act lawsuit against the City of South

⁶⁶ Ibid.

⁶⁷ Ahrens, Gary; “Fair Housing Restrictions on Municipal Action”, Wisconsin Real Estate Magazine, www.news.wra.org, April 2007

⁶⁸ Ibid.

Milwaukee. The American Civil Liberties Union of Wisconsin Foundation (ACLU), Legal Action of Wisconsin (LAW) and the Legal Aid Society of Milwaukee represent eight families who live in the Lake Bluff Apartments, an affordable housing complex in South Milwaukee. For years, the City tried to prevent the complex from being constructed. Since the 56 units were eventually built in the mid-1990s, the City has fought to tear these new residential buildings down.

The federal lawsuit was originally brought by the bank holding the mortgage on housing complex to prevent South Milwaukee from razing Lake Bluff. The ACLU, LAW and Legal Aid are seeking to represent the tenants because Lake Bluff houses many of South Milwaukee's minority residents and provides critically needed housing for families with physically disabled members.

All the tenant families seeking to intervene in this case have disabled or minority members. Census data highlights the extent of the racial segregation that continues to exist in South Milwaukee. In 1990, before Lake Bluff was built, only four out of 918 people living in the census block group which includes the property - less than one-half of one percent - were African American. As recently as 2000, only about 1% of South Milwaukee's residents were African American. In 2005 the Defendant sought a summary judgment. Oral arguments were given by both sides in 2007. No decision was yet given at the time this report was written.

Greendale and Greenfield

In 1998, two cases were filed against the City of Greenfield and the Village of Greendale. In these cases⁶⁹, which challenged the Village of Greendale's and City of Greenfield's 2,500 foot ordinances, the federal district court found that the 2,500 foot community living arrangement spacing requirement under sec. 62.23(7)(i), Stats., has been preempted by the federal Americans with Disabilities Act of 1990 and the Federal Fair Housing Amendment Act of 1988.

⁶⁹ Vincent Z. by his Guardian, et al. v. Village of Greendale, City of Greenfield, State of Wisconsin and Wisconsin Dept. of Health & Family Services AND Oconomowoc Residential Programs v. City of Greenfield and Village of Greendale (U.S. Eastern District Case No. 96-C-1112) (each decided on September 30, 1998)

Impediment #9: Inadequacies of the Milwaukee County Transit System

Public transit policies affect all areas of life. They are tied to the area's economy, housing market, educational systems and health care, among other local characteristics. The Milwaukee County Consolidated Plan discusses the connection between the location of jobs and housing. It states, "[pe]ople seek to live near where they work. An inability to do so creates changes in and places demands upon transportation and transit systems in the short term, and over time can influence where housing locates." Map 11 below⁷⁰ shows that the current transit lines do not correspond with projected job growth in Milwaukee County or the region.

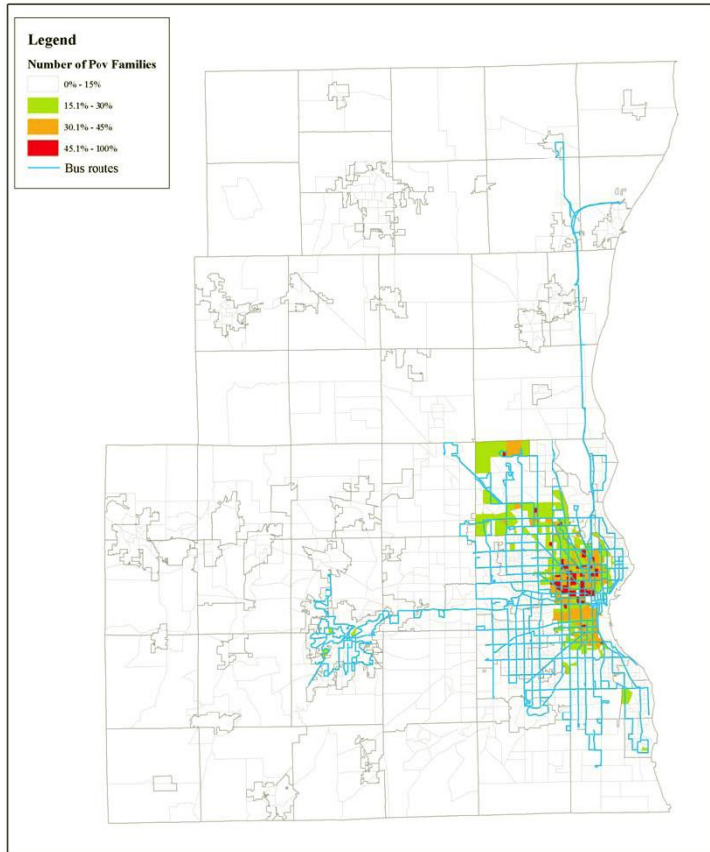
In addition, it is important that the location of transit lines coincides with the location of affordable housing and vice versa. The County's Consolidated Plan adds, "[i]nappropriately located housing may be affordable, but if it isolates people and prevents them from obtaining employment or needed services, it is not in their interest to live there. It cannot be assumed that affordable housing located without regard to transit will be served by extending existing transit regardless of cost."

There are fair housing implications, however, using the above strategy of siting both affordable housing and transit. It is important to also consider that the housing be located in low poverty areas, to minimize negative effects of concentrated poverty.

⁷⁰ Rast, Joel; "Transportation Equity and Access to Jobs in Metropolitan Milwaukee", University of Wisconsin Milwaukee Center for Economic Development, September 2004

Map 11: Metropolitan Public Transit Routes and Families in Poverty⁷¹

Map 5. Public Transit Routes and Families in Poverty, Milwaukee Metro Area



⁷¹ Ibid.

State and Federal Housing Policies

While Milwaukee County is not directly involved in these State and Federal impediments, it is essential that this report and the County address them in some way, because they impact the County's ability to "affirmatively further fair housing" as required by HUD. The County must seek to overcome the following impediments in whatever capacity it has, albeit limited.

Impediment#10: Lack of Section 8 Housing Choice Voucher Availability

As mentioned previously, the current level of funding for the Section 8 program impedes local communities' ability to assist their population in finding quality, affordable housing. Milwaukee County's Rent Assistance Program has vouchers to assist 2,014 families. When its waiting list opened most recently in September 2001, 9,561 families applied, demonstrating a need that far exceeds available resources.

Impediment #11: No Regional Strategic Plan for Housing

Housing opportunity is a regional issue. Metropolitan Milwaukee needs to expand the range of housing options available in each and every community, particularly focusing on housing choices for low- and moderate-income households. If a regional housing strategy were developed, the Southeastern Wisconsin Regional Planning Commission (SEWRPC), the regional planning organization, would be the appropriate organization to undertake the effort.

Impediment #12 Constant Attack on the Community Reinvestment Act (CRA) by Banking Regulators

CRA regulators (the Office of the Comptroller of Currency, the Office of Thrift Supervision, the Federal Reserve Bank and the Federal Financial Institution's Examination Council) regularly submit proposals to weaken the Community Reinvestment Act. This is problematic because the CRA is intended to encourage depository institutions to help meet the credit needs of the communities in which they operate, including low- and moderate-income neighborhoods. The CRA requires that each depository institution's record in helping meet the credit needs of its entire community be evaluated periodically. That record is taken into account when federal examiners consider an institution's application for deposit facilities. Both urban areas and rural communities depend on CRA to leverage affordable housing and economic development.

Impediment #13: Wisconsin's Smart Growth/Comprehensive Planning Law: No Enforcement Mechanism

The State Smart Growth law contains *goals* in its Smart Growth Housing Element, and if implemented by a community, these goals would expand affordable housing opportunities. Specifically, the law states that communities should “provide a range of housing choices that meet the needs of persons of all income levels and of all age groups and persons with special needs, policies and programs that promote the availability of land for the development or redevelopment of low-income and moderate-income housing, and policies and programs to maintain or rehabilitate the local governmental unit’s existing housing stock.”⁷² The law, however, includes no mechanism to enforce that provision. Subsequently, there are no consequences for municipalities failing to include affordable housing, or the means of implementation, in their plans.

Impediment #14: Lack of Resources/Incentives for Developers to Build for the Lowest Income Households

As mentioned in the previous section, most resources for the development of affordable housing are provided through federal programs. Resources for the building of new rental housing have lagged far behind the demand, resulting in the shortage of affordable rental housing in many communities, including those in Milwaukee County. Production of new low-income housing today is primarily achieved through the Low Income Housing Tax Credit (LIHTC) Program. This is the most utilized program for the production of affordable housing, but insufficient to overcome the affordable housing shortage, especially for the lowest income families.

Impediment #15: Wisconsin Housing and Economic Development Authority (WHEDA): LIHTC Allocation Scoring and Qualified Census Tracts Limit Housing Opportunities

WHEDA’s tool for scoring LIHTC applicants, the Qualified Allocation Plan (QAP), gives preference to development projects that have local community support. For example, a developer of a LIHTC project must have a letter from the mayor or village president of a community in support of their affordable housing proposal. Under WHEDA’s current tax credit scoring policy, it

⁷² Wisconsin State Statutes Chapter 66: General Municipality Law, 66.1001 Comprehensive planning.

is likely communities that already have affordable housing will continue to allow its development. However, those communities that have a shortage of affordable housing, even though there is a need for it, can continue to deny its development. The process of obtaining low-income housing tax credits in Wisconsin is highly competitive and can only be done through WHEDA. Even though the “local support” category accounts for just 6% of the total QAP scoring, this can be enough to eliminate a project, thus preventing its construction in a community in which it may be greatly needed. This policy has the potential to limit housing opportunity, perpetuate segregation and contribute to the concentration of poverty that exists in some communities.

Another problematic issue with the LIHTC Program is preference given to *Qualified Census Tracts* (QCTs), which are essentially high poverty census tracts. This preference serves to perpetuate segregation and concentration of poverty. The IRS’s Section 42⁷³ allows projects in QCTs to have increased “eligible basis”.⁷⁴ “Eligible basis” is the amount of project cost that is eligible for tax credits. A project’s location in a QCT can easily be the determining factor in a project’s feasibility. Unless the developer has extensive capital,⁷⁵ the financing gap would typically be too large to develop a project outside a QCT. This is problematic particularly in a racially segregated community like Milwaukee County, as well as in the surrounding region. Even if WHEDA modified the point system of their QAP to address this discrepancy, it still would not address the issue that developments within the QCTs receive increased tax credits, making the project more feasible. Without a major effort by the public to address the financing gap, many for-profit and most non-profit developers will never be able to develop outside of a QCT.

Impediment #16: Suburban Policies⁷⁶

While the exact intensity of segregation within Milwaukee has been a topic of some academic debate, it cannot be argued that the metropolitan Milwaukee remains one of the most hyper-segregated areas in the country. No other metropolitan area in the

⁷³ The law that regulates the Low Income Housing Tax Credit Program.

⁷⁴ Increased by a multiplier of 1.3

⁷⁵ Milwaukee-area non-profit developers do not typically have this level of capital.

⁷⁶ “Suburban”, in this report, describes every municipality in the Metropolitan Statistical Area other than the City of Milwaukee.

country has proportionately fewer minority residents⁷⁷ living in the suburbs. As mentioned in the previous section, some of this segregation is due to historic, now illegal, policies by the federal government and practices by the housing industry. However, *current* policies, practices and procedures of these municipalities ensure that the cycle of segregation continues.

As described in the previous section, the three most widely agreed-upon causes of residential segregation are housing discrimination, economics and choice. The concept of choice is not manifested in suburban municipal policy, but discrimination and economics are.

In the case of suburban impediments to fair housing, *illegal* discrimination under the fair housing laws and *legal* discrimination based on household income often become intertwined and difficult to parse out. This is why very few lawsuits have been successfully brought against municipalities on the basis of fair housing discrimination.

Discrimination and Discriminatory Policy

While discrimination exists in suburban private rental, sales, insurance, and lending markets, it is not overt in municipal policy with one significant exception: policies designed to limit children moving into a community.

Opposition to Housing for Families with Children

Some suburban communities have enacted policies designed to reduce housing opportunities for families with children. The argument made for doing so is that if the population of school age children increases, the suburb will then incur a cost for the construction of new schools. Consequently, some suburbs are enacting exclusionary zoning ordinances as a response to this concern. These ordinances may exclude households with children with provisions that limit or prohibit the construction of multi-family housing; not allowing the construction of multi-family housing units larger than 2 bedrooms; and assess school impact fees to the developer. The effects of these ordinances on families with children are clear fair housing impediments. These types of policies also have a racially disparate effect, due to the size of minority families (as described in the previous section) and may be veiled attempts to exclude people of color.

⁷⁷ Quinn, Lois and Pawassarat, John, “Racial Integration in Urban America: A Block Level Analysis of African American and White Housing Patterns”, University Wisconsin – Milwaukee, Employment and Training Institute, January 2003

Economics/Affordable Housing

The high cost of housing in the suburbs is an impediment to fair housing choice. The restrictive effect of housing costs leaves few options for households of low, moderate and middle incomes. Metropolitan Milwaukee has the largest income disparity between whites and blacks in the U.S. According to the American City Business Journals, blacks in Milwaukee make 49 cents for every dollar whites make.⁷⁸ This income disparity means African Americans are more likely to be negatively impacted by policies that increase the cost of housing. Although these policies are may be based on economic status, rather than race, they nevertheless have the effect of excluding minorities from suburban housing opportunities.

NIMBYism

NIMBY is an acronym for "Not in my backyard," a strong exclusionary sentiment that exists among some metropolitan Milwaukee residents and policymakers. For example, residents may oppose a low-income housing tax credit development for families because they or because they oppose the entry of minorities into what are homogeneously white neighborhoods, or because they fear (erroneously) it will attract crime or lower property values. This opposition is strongly communicated to elected officials and is then manifested into municipal policy, taking various forms: in overly restrictive growth management systems, unnecessary processing delays and excessive permitting procedures. Indicators of NIMBY impacts may also be evident in the number of times that staff recommendations for development approval are overturned by a planning commission or council, or the rate at which proposals for affordable housing development are approved in comparison to the rate of approval for other types of development proposals. Recent NIMBY examples from the region were cited in the Public Policy Forum's "Embracing Diversity" report.⁷⁹

- In Milwaukee County, the Village of Brown Deer battled with developer Brisben Cos. over a proposed 256-unit apartment and townhouse tax-credit project. The issue led to a move to recall two trustees in 1999 and to a heated election the following spring.
- A lawsuit was filed in June of 2000 against the Milwaukee County Village of Bayside over its decision to stop the construction of a new group home.

⁷⁸ Chaptman, Dennis and Ortiz, Vikki, "Racial gap in pay runs deep", Milwaukee Journal Sentinel, September 25, 2002

⁷⁹ *Embracing Diversity, Housing in Southeastern Wisconsin*, February 2002, Public Policy Forum.

Impact Fees

Impact fees are fees levied on the developer of a project by a city, county, or other public agency as compensation for impacts the project will produce. They are often used for infrastructure costs. According to the U.S. Department of Housing and Urban Development, “[i]mpact fees are regressive because they are assessed on a per unit basis rather than a percent of the value of the home. Those looking for affordable housing are forced to absorb fees that are a substantial percentage of the sales price of any home they may purchase.”⁸⁰

In the document, “Identifying and Mitigating Local Regulatory Barriers to Affordable Housing in Waukesha County, Wisconsin,” the authors specifically note, “...because of high fee schedules, developers choose to build only high-end single family houses because the fees can be absorbed more easily in the sales price.”⁸¹ A barrier is therefore created that impedes the development of affordable housing and also limits participation by minority homeowners. Also, because impact fees are passed on more easily to homebuyers than to renters, there may be a disincentive to develop multi-family rental housing, thus further limiting housing choice in a community.

Exclusionary Zoning Codes

Exclusionary zoning consists of development regulations that result in the exclusion of low- and moderate-income and minority families from a community. Exclusionary zoning practices include: excessively low housing density requirements, large minimum lot size zoning, any minimum house size restriction, unrealistic or unfeasible apartment density zoning, prohibitions on accessory apartments, little or no land zoned for affordable or multi-family housing, special-use permits and spacing requirements for group homes, discriminatory treatment of manufactured housing, and unreasonable and expensive building code requirements for rehabilitation projects.

⁸⁰ US Department of Housing and Urban Development, “Not in My Backyard: A Report to President Bush and Secretary Kemp by the Advisory Commission on Regulatory Barriers to Affordable Housing”, 1991

⁸¹ Schuetz, Mary Kay and White, Sammis B, “Identifying and Mitigating Local Regulatory Barriers to Affordable Housing in Waukesha County, Wisconsin”, University of Wisconsin, Milwaukee – Urban Research Center, May 1992

The Fair Housing Act case involving the Village of Brown Deer, described earlier, is a local example of exclusionary zoning. The Village violated the FHA by using a 1973 covenant limiting multifamily units to two bedrooms as a reason to deny the development of a multifamily affordable housing project. Another regional example is a New Berlin's zoning ordinance stating that new construction in that district must be at least 1,250 square feet with an attached garage (even though the district has mostly smaller homes with no garages). This zoning requirement is effectively eliminating the possibility of constructing affordable homes and the presence of low-income persons in this community.

Inadequate Transportation

As discussed in the Demographics Section, there is a "spatial disconnect" between unemployed persons and suburban job growth in the metropolitan Milwaukee area. The high number of black households concentrated in the inner city who do not own cars exacerbates this problem. There is a need to connect this available labor force with available jobs. One possible solution would be to create appropriately priced housing in high job growth communities that is affordable to persons in those jobs. Currently the region's mass transit is not adequate to access jobs outside Milwaukee County. Transit schedules outside Milwaukee County are not conducive to many work schedules and many suburbs aren't accessible by public transit at all.

Impacts of Suburban Policies on Milwaukee County and Southeastern Wisconsin

The suburban policies described above have far-reaching negative consequences. They have exacerbated the concentration of poverty, the segregation of people of color and thus affect housing and employment opportunities and other quality of life issues throughout the County.

Socioeconomic indicators are related to location of residence. Persons residing in the City of Milwaukee are significantly more likely to live in poverty than are persons who reside in suburban communities. Additionally, people who live in the city are 3 times more likely to be unemployed than are people who live in suburbs. Educational attainment disparities between city and suburban residents are evident when comparing the number of high school graduates by location. City residents are more than twice as likely as suburbanites not to have a high school diploma. The median household income for persons residing in outer-ring suburbs is almost twice that of City of Milwaukee residents. The centralization of minority neighborhoods limits the ability of minorities to access all the available labor and housing market opportunities.

Disparities are not limited to those between the City of Milwaukee and its suburbs, however. Comparing West Milwaukee and some other southern, inner ring County communities with River Hills and outer ring County communities would result in very similar inequities. For example, the median household income for West Milwaukee and St. Francis range from \$35,250 to \$36,721; Fox Point, Whitefish Bay, Bayside and River Hills median incomes range from \$80,572 to \$161,292. Poverty rates in West Milwaukee and Cudahy are at least four times greater than those of River Hills and Hales Corners; and median rents in St. Francis, West Milwaukee and Cudahy range from \$490 to \$542, significantly lower than the median rents of Bayside, Fox Point and River Hills (\$882 to \$950).

In addition, employment opportunities in central cities have decreased and changed over time in a fashion that has put working class minorities at a disadvantage. Most jobs that do not require a high school diploma or college degree have moved into the suburbs. If African Americans, who experience disproportionately low levels of educational attainment (as described in an earlier section of this report), are not able to access jobs in the suburbs, they will face high rates of unemployment.⁸² This phenomenon, when institutionalized in the “spatial mismatch” described in other sections of this report, creates entrenched unemployment patterns that are difficult to break. As one report notes, “[i]f you are unemployed often or you have long spells of unemployment, then it is going to be more difficult to find a job in the future.”⁸³

For those African Americans who want access to opportunities in the suburbs, housing discrimination and the lack of integrated neighborhoods may discourage or prevent them from actually moving there. Commuting between the City of Milwaukee and its suburbs is an option, but it has limitations for many households. Specifically, some households do not own a vehicle and depending on mass transit may require more travel time than people are willing or able to expend. Furthermore, given the limitations of the region’s mass transit system, such commuting may not be possible. Increasingly, too, rising gas prices may make commuting cost-prohibitive for people who do own their own cars – imposing yet another cost of segregation on minorities.

The impacts of residential patterns on employment opportunities are discernible in other ways. For example, Stephen Ross of the University of Connecticut suggests that “members of the African-American community may have less information about job opportunities because their job networks are oriented around the central city where they live...” This in turn may limit

⁸² Stephen Ross, *Advance*, University of Connecticut, September 1998

⁸³ Ibid.

their earning power. As Ross states, "[i]f mobility is limited and minorities do not choose the most favorable combination of job and residence available, this difference may directly affect wages, housing price and commuting distance."⁸⁴

Professor Ross's research also analyzes the nexus between housing segregation and discrimination in the labor market. He posits that employers' decisions to hire minorities may depend on the diversity of the neighborhood in which the jobs are located. Specifically, he argues that in diverse communities, employers may be more likely to employ a diverse work force than in segregated housing market areas.⁸⁵

Suburban exclusionary policies create a burden on other jurisdictions in the region. In this case, the detrimental effects of this burden fall squarely on the shoulders of Milwaukee County and the City of Milwaukee in the form of disparate incomes along racial lines, educational attainments, the ability to build wealth, and the ability to access quality employment, as well as access to other life-improving services. When combined with state and federal impediments to fair housing choices, these policies propagate inequality throughout the County.

⁸⁴ Stephen Ross, *Advance*, University of Connecticut, September 1998

⁸⁵ *Ibid.*

Private Market Impediments to Fair Housing Choice

Social scientists and civil rights organizations identify illegal housing discrimination as the major contributor to residential racial segregation.⁸⁶ Private market impediments are obstacles to fair housing in the housing production, mortgage lending, homeowners insurance, rental and home sales markets. Though Milwaukee County is limited in its ability to directly address private market impediments, it, as well as its participating municipalities, can take a leadership role in bringing these issues to the public's attention, educating housing consumers and providers, and enacting additional regulations or legislation to ameliorate problems arising from private market impediments. The following discussion identifies several private market impediments that must be addressed.

Impediment #17: Housing Production

Affordable housing production in the private market is based on incentives that are usually monetary. One of the impediments to fair housing in housing production is the lack of programs that provide such incentives to developers.

Accessibility: Inadequate Production of Rental and For Sale Units

The lack of accessible housing is an impediment to persons with disabilities. As mentioned previously, one reason not enough accessible units are built is the lack of incentives made available to housing producers. In addition, Milwaukee County local building inspection departments do not always effectively enforce laws that require accessible construction, such as the Americans with Disabilities Act, the Federal Fair Housing Act, and Section 504.

Affordability: Inadequate Supply of Affordable Housing

The lack of affordable housing, both private and subsidized, is an impediment to fair housing choice. Because low-income persons are more likely to be people of color, persons with disabilities, elderly or families with children, this is a fair housing concern. Roughly 37% of the households in Milwaukee County currently pay more than 30% of their income toward rent. In

⁸⁶ Massey and Denton, 1993.

short, over a third of Milwaukee County households reside in unaffordable housing, resulting in harm to their overall economic well-being.

Unit Size: Lack of Larger Units

A lack of larger units (with 3 bedrooms or more) is a fair housing impediment because it impacts at least two protected class groups – families (with children and extended), as well as minority households, many of which tend to be larger than white households. The dearth of these larger units also disproportionately affects families who are low-income, as they do not have the range of choices available to families with higher income. Another result of this impediment is overcrowded housing, primarily among new immigrant families who may be doubling up, have larger families, or be living as an extended family with several generations under one roof.

Impediment #18: Mortgage Lending

Discrimination in the Lending Market

Discrimination in mortgage lending prevents or impedes home seekers from obtaining the financing normally required to purchase a home. Racial discrimination in the home loan industry can be based either on the race of the loan seeker or on the racial composition of the neighborhood where the home being purchased is located. This latter form of discrimination is commonly referred to as mortgage redlining.

Discrimination in the home loan industry can take several forms, including: outright denial of a loan; discouraging a loan seeker from applying; offering less favorable rates, terms and service; taking an inordinate amount of time to process applications; and using exclusionary underwriting guidelines. Discrimination can also occur outside of the lending institution itself, in the appraisal of the home, in the underwriting of private mortgage insurance, and in the practices and procedures of the secondary loan market. In addition, the lack of loan origination offices in minority and low income census tracts is a form of redlining that drives residents into the subprime market, often into predatory loans.

In order to combat some of the practices described in this section, the Metropolitan Milwaukee Fair Housing Council (MMFHC) established a program component called Strategies to Overcome Predatory Practices (STOPP), to address fair

lending and predatory lending practices. STOPP utilizes a coalition of community-based organizations, housing industry representatives and government to identify and eliminate fraudulent, unfair, and predatory lending practices throughout Milwaukee County. MMFHC staff use hotline calls and in-person meetings to provide direct assistance to homeowners and prospective homeowners. Staff conducts intake, reviews documents and provides assistance to borrowers seeking loans, as well as to those who may be facing foreclosure. Those facing foreclosure receive information on the process and options for taking action to avoid the loss of their home. Depending on the specific circumstances, a plan may be coordinated to help the client address their situation. Clients may be referred to partner organizations for help improving their credit, may receive assistance pursuing legal options or filing complaints with regulatory agencies, and/or receive assistance in negotiating with the existing lender or identifying a new one to obtain an affordable home loan, suitable for the borrower's circumstances.

STOPP is also working directly with lenders and policy-makers on the city, county, state and federal levels, to:

1. educate borrowers about loan products and foreclosure,
2. create a refinance loan product, and
3. to craft legislative and regulatory initiatives to protect borrowers, currently providing the Wisconsin State Legislature with technical assistance on proposed legislation prohibiting foreclosure "rescue" scams.

Lack of Spanish and Hmong-speaking Lenders

For persons new to this country who do not speak English, or are more comfortable speaking another language, obtaining a home mortgage can be even more stressful than for other borrowers. Because non-English speaking persons seeking a mortgage often have to rely on their children or other family members to translate, errors and misunderstandings are more likely to occur, and discrimination or fraudulent practices are less likely to be uncovered.

Lack of Flexible Underwriting to Accommodate Persons with No Credit History

Persons new to this country often have not established the credit required to obtain a prime mortgage. In addition, both housing industry and advocacy representatives suggest that some African Americans do not have an established relationship with a conventional bank or financial institution and/or have sufficient credit histories. These situations do not make these groups any less likely to be able to responsibly take on a mortgage; however, these situations do make it difficult for lenders to

use conventional underwriting guidelines to give them a mortgage and give lenders a seemingly legitimate excuse to deny the loan.

Predatory Lending Practices

Deregulation of the banking industry in the 1990s led to a sharp increase in high-cost subprime loans and left many neighborhoods vulnerable to predatory lending practices.

A predatory loan is an unsuitable loan designed to exploit vulnerable and unsophisticated borrowers. Predatory loans are a subset of subprime loans. A predatory loan has one or more of the following features: 1) it charges more in interest and fees than is required to cover the added risk of lending to borrowers with credit imperfections, 2) it contains abusive terms and conditions that trap borrowers and lead to increased indebtedness, 3) it does not take into account the borrower's ability to repay the loan, and 4) it often violates fair lending laws by targeting women, minorities and elderly persons.

The volume of high-cost subprime loans, foreclosures and predatory lending complaints indicates that predatory lending is a problem of massive proportions in Milwaukee County. Because there is no comprehensive way to track predatory loans, the extent to which predatory lending activity is occurring in Milwaukee County cannot be specifically documented. According to 2005 HMDA data, 34% of home loans in Milwaukee County were high-cost loans.⁸⁷ When this relatively high percentage is combined with the increase in foreclosures in the County, the data strongly suggest that a significant proportion of these high-cost loans have been predatory – they were unsuitable for the borrower. Foreclosures are much more closely tied to subprime and predatory loans than to conventional loans.

Several entities, including MMFHC, monitor complaints from borrowers who are involved in a predatory loan. In 2007, MMFHC received 229 allegations of predatory lending. Because victims of predatory loans are often ashamed, confused and overwhelmed by the enormity of their losses, predatory lending is underreported and thus complaint numbers likely represent a small fraction of the phenomenon. Further, MMFHC staff have noted that not one person calling the MMFHC fair lending hotline has attended any kind of homebuyers' counseling program, which points out two related issues: first, that many

⁸⁷ Nonprofit Center of Milwaukee, HMDA Home Purchase Loan Statistics Report, January – December 2005

homebuyers, especially those with little experience in the home sales and financing markets, are lacking information about their rights, and second, that there is an ongoing need for fair housing and fair lending education in Milwaukee County. Educated, financially literate consumers are far less likely to fall victim to predatory lenders.

High-cost Loans

The Home Mortgage Disclosure Act (HMDA) data used in this report defines a high-cost loan as a loan priced at more than 3 basis points over the comparable Treasury rate for first lien loans. Milwaukee County has been plagued by high-cost loans. Over one third (34%) of Milwaukee County's home loans were high-cost in 2005. The percentage of high-cost home loans for the State of Wisconsin was significantly lower at 20.7%.

High-cost Loans by Race and Ethnicity

In 2005, African Americans in Milwaukee County were much more likely to receive high-cost loans than whites. Of all home purchase loans to African American borrowers, 68.6% were high-cost, but of home purchase loans to white borrowers, only 36.8% were high-cost. An African American borrower is almost two times more likely to receive a high-cost loan than a white borrower. Milwaukee whites have a much greater loan origination success rate compared to their counterparts elsewhere in the nation. Milwaukee minorities' denial rate is much more similar to the national average denial rate of minorities.

Hispanic borrowers also received a significantly higher proportion of high-cost loans than white borrowers in 2005. Of all single-family loans to Hispanic borrowers, 44% were high-cost; a Hispanic borrower was 20% more likely than a white borrower to receive a high-cost loan. Subprime lending is also heavily concentrated in minority neighborhoods; homeowners in predominately minority neighborhoods are almost 12 times more likely to receive a subprime refinance loan than homeowners in predominately white neighborhoods.⁸⁸ Even more alarming is evidence showing that upper-income blacks are more likely to be denied prime rate loans than moderate-income whites, which has the effect of driving blacks into the subprime market.⁸⁹ As a result, up to half of black Milwaukeeans who receive subprime refinance loans could qualify for prime rate loans.

⁸⁸ ACORN, 2004.

⁸⁹ Johnson-Elie, Tannette. "Home loan disparities between blacks, whites tell familiar tale." Milwaukee Journal Sentinel, October 29, 2003

High-cost Loans by Income

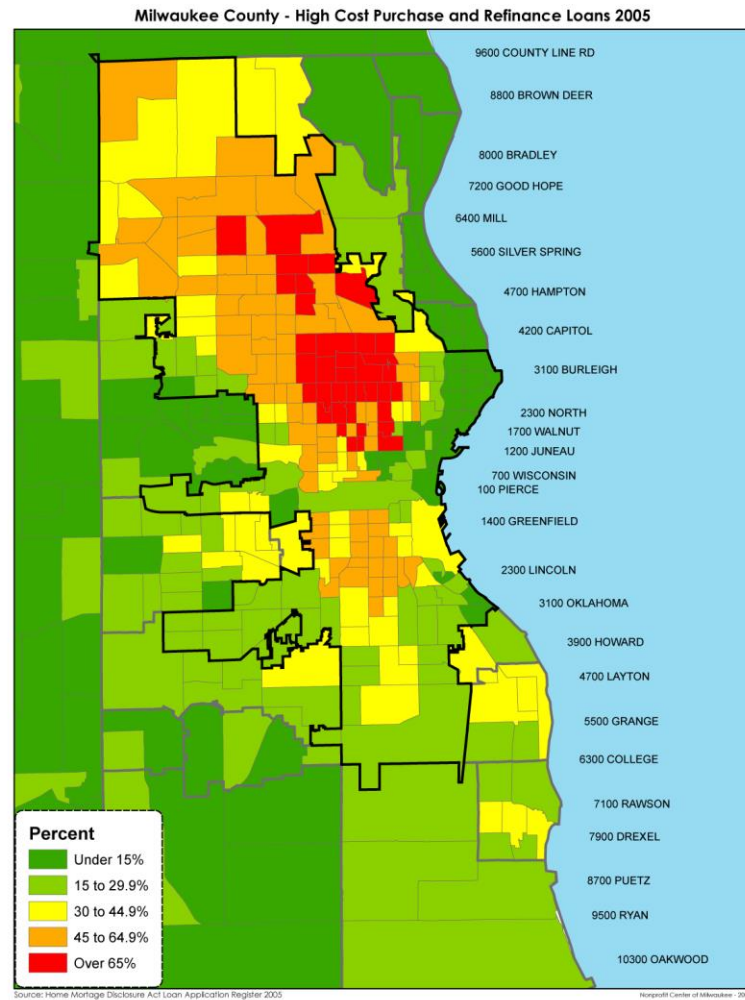
Roughly 40.9% of all single-family loans to low and moderate income borrowers were high-cost while only 29.1% of single-family loans to middle and upper income borrowers were high-cost. Low and moderate-income borrowers received high-cost loans 41% more frequently than middle and upper income borrowers (40.9% of loans for LMI borrowers that were high-cost divided by 29.1% of the loans for MUI borrowers that were high-cost).

It is troubling to note that in Milwaukee County, almost one out of three middle- and upper-income borrowers received high-cost loans. Franklin Raines, Fannie Mae's former CEO, has estimated that nationally over 50% of these high-cost loans went to borrowers who actually qualified for less expensive, conventional loans.

Like their counterparts across the country, many of Milwaukee County's borrowers with high-cost loans are paying more money than necessary for their mortgage. This puts undue strain on household budgets, leaves less money available to spend in the community and increases the likelihood of foreclosure.

It should also be noted that the HMDA numbers showing high-cost loans do not include the recently popular Adjustable Rate Mortgages (ARMs) that had initially low introductory interest rates. Most of the ARMs, even those in which the rate increases after only two or three months, started out with interest low enough that they are not included in HMDA high-cost loan category. ARMs have proven to be problematic throughout the County, particularly for borrowers who did not know they had adjustable rates, and those who had no idea how high their payments could go.

Map 12: Milwaukee County High Cost Home Purchase and Refinance Loans⁹⁰



⁹⁰ Map produced by the Nonprofit Center of Milwaukee

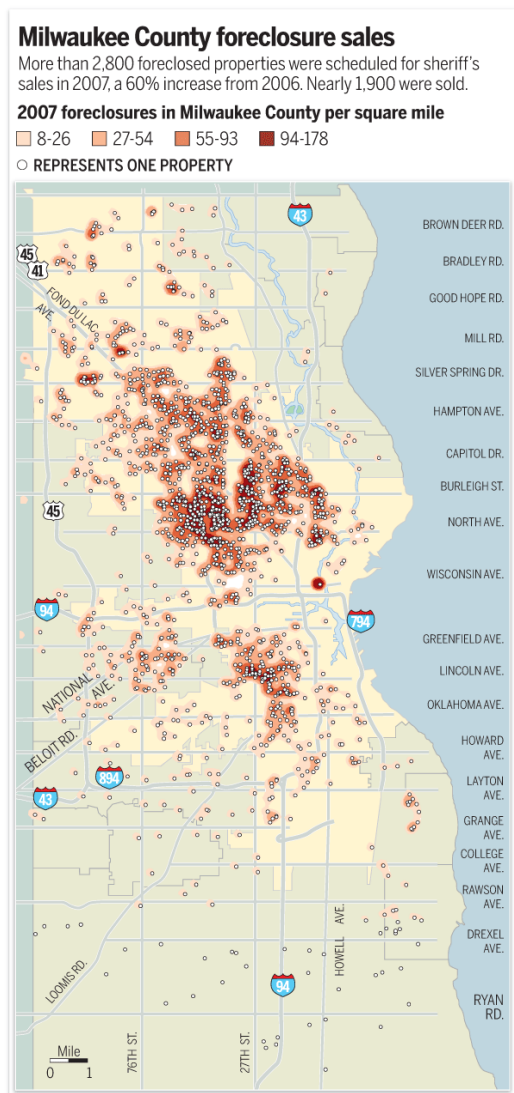
Foreclosures

Foreclosures of single-family homes are a serious threat to neighborhood stability and community wellbeing. Recent research has shown that the explosion in foreclosures that started in the 1990s was primarily driven by the growth of high risk, subprime lending. Foreclosures, particularly in lower-income neighborhoods, can lead to vacant, boarded-up, or abandoned properties. These properties, in turn, contribute to the stock of “physical disorder” in a community that can create a haven for criminal activity, discourage social capital formation and lead to further disinvestment.⁹¹ The Pew Center on the States, stated that one in sixty Wisconsin homeowner’s is estimated to be in foreclosure as of January 2008. The Center for Responsible Lending, a national housing advocacy non-profit organization, predicts that 19.6% of subprime loans in Wisconsin could eventually fail and the homes will be foreclosed upon. In addition, the Pew Center states that 35% of all homeowners will likely feel the ripple effects of foreclosure from subprime loans. Affected homeowners are expected to lose \$3,410 on average property values. \$1.9 billion is projected to be lost from the combined state and local tax base.

The Milwaukee County Sheriff’s office is responsible for compiling foreclosure/sheriff sale data. Data from December 2006 to December 2007 show that 1,900 sheriff’s sales have occurred. In 2007, the number of Milwaukee County suburban foreclosures grew by 40% from the previous year.

⁹¹ Immergluck, Dan and Smith, Geoff, “There Goes the Neighborhood: The Effect of Single-Family Mortgage Foreclosures on Property Values”; Georgia Institute of Technology and the Woodstock Institute, June 2005

Map 13: Milwaukee County Foreclosure Sales⁹²



⁹² Map is a product of the Milwaukee Journal Sentinel. It is used with permission.

Loan Originations and Denial Rates: Lending Gap

The HMDA Home Loan Statistics Report provides a snapshot of the median value for Milwaukee County home purchase loans by race and ethnicity. Of 2005 home loans:

- the median loan value of African Americans was lower than other racial and ethnic groups at \$80,000.
- Latinos' median loan value was \$107,000.
- Asian Americans' median loan value was \$125,000.
- whites' median loan value was \$134,000.

Refinance loans by race and ethnicity mirror that of the home purchase loans, with African Americans having the lowest median loan value and whites having the highest.

In general, *denial* and *origination rates* are different sides of the same coin. Adding the 1) *origination rate* to the 2) *denial rate* to the 3) withdrawn application rate will equal 100%. The denial rate for *home purchase* loans in Milwaukee County varies by race:

- 36.8% for whites
- 44.7% for Asian Americans,
- 55.2% for African Americans, and
- 44% for Latinos.

In comparison, State of Wisconsin denial rates are lower for every racial ethnic group, except Latinos:

- 34.0% for whites;
- 39.3% for Asian Americans;
- 53.3% for African Americans, and
- 45.8% for Latinos.

In Milwaukee County, the *refinance* loan denial rate for white households is 51.7%, compared with 64.0% for African American households, 60.4% for Latino households, and 60.3% for Asian American households.

Among lenders reporting Home Mortgage Disclosure Act (HMDA) data, the primary reasons for stated loan denials in Milwaukee County are relatively consistent among all races and ethnic groups. Credit history and unfavorable debt-to-income ratios were the main reasons stated for loan denials. Additional reasons for denial included: incomplete credit application, lack of collateral, unverifiable information, employment history, insufficient cash and denial of mortgage insurance.

Automated Underwriting

The Government Sponsored Enterprises (GSEs), or the secondary mortgage market (Fannie Mae, Freddie Mac and Ginnie Mae), have established an automated underwriting system which has become an industry-wide standard in mortgage underwriting. Automated underwriting is a preferred system by GSEs and lenders because they can provide quick loan approval or denial decisions, saving a considerable amount of time. In addition to the time savings, automated underwriting is preferred because it is based on algorithms, theoretically eliminating human bias. Freddie Mac maintains and markets a large automated underwriting engine known as Loan Prospector, and Fannie Mae has an automated underwriting engine known as Desktop Underwriter.

However, critics of the automated underwriting standard say that it allows local lenders to become lazy about checking an applicant's credit and is harmful to those with non-traditional credit (and it should be noted that persons of color are more likely to have non-traditional credit).⁹³ In order for banks to have good, flexible mortgage products for their consumers with non-traditional credit, the banks must keep those mortgage loans in their own portfolio. This has a limiting effect on the flexible lending practice, both in number of loans that can be made and in the size of bank that can make them. Because the GSEs typically buy a majority of local lenders' loans (automatically underwritten loans), only larger institutions can afford to keep more flexible mortgages in their portfolio. Thus limiting mortgage lending to minority and other underserved communities.

⁹³ Non-traditional credit histories might include forms of credit such as apartment rent records, payday loans, rent-to-own purchases, utility bills and other credit and month-to-month payment services used by an individual when they don't have retail credit cards, bank credit cards, installment loans and other traditional consumer debts routinely reported to the nation's three major credit reporting agencies.

Impediment #19: Homeowners Insurance

Discrimination in the Homeowners Insurance Market

Homeowners insurance is a requirement for a home mortgage; therefore, the impact of discrimination in the insurance industry is reflected in racial and ethnic homeownership rate disparities. Racial discrimination in the provision of insurance not only denies fair housing choice, but also fosters disinvestment and the deterioration of neighborhoods. Discrimination in the provision of homeowners insurance can take many forms. Insurance redlining is the systematic refusal of insurers to issue policies and/or providing inferior terms and conditions on property in certain neighborhoods, based on racial stereotypes or other non-market criteria. Redlining is also manifested in higher rates for properties in minority neighborhoods, the relocation of insurance agencies outside of predominately minority areas and the selective placement of agents on the basis of race. Minimum policy requirements and restrictions or penalties on older homes also have a discriminatory impact on older inner city, largely minority neighborhoods.

Equal access to homeowners insurance has been a concern in the Milwaukee area since the mid-1960s, when insurance companies began to withdraw services from the inner city. Numerous studies over several decades demonstrated the continuous existence of homeowners insurance discrimination and redlining in Milwaukee County, including those by the Community Housing Resources Board and by University of Wisconsin – Milwaukee professors Gregory Squires and William Velez.⁹⁴

Formal complaints and lawsuits against providers of homeowners insurance began to emerge in the late 1980s when the local branch of the National Association for the Advancement of Colored People (NAACP) and eight African American homeowners filed a federal lawsuit against American Family Insurance Company (AFI) alleging redlining. In 1994, based on testing conducted by the Metropolitan Milwaukee Fair Housing Council (MMFHC), the National Fair Housing Alliance filed

⁹⁴ William R. Tisdale and Carla Wertheim, “Giving Back to the Future” in *Organizing Access to Capital*, edited by Gregory D. Squires. Philadelphia: Temple University Press, 2003

complaints with HUD against Allstate, State Farm and Nationwide Insurance Companies alleging that these three insurers engaged in discriminatory insurance practices.⁹⁵

In addition, MMFHC filed complaints with HUD against Liberty Mutual, Aetna, Travelers and Prudential Insurance Companies in 1997, alleging insurance redlining. These allegations were based on investigations spanning over two years. Unable to resolve these complaints through HUD, MMFHC subsequently filed and settled lawsuits against Liberty Mutual, Travelers Insurance (which had purchased Aetna), and Prudential Insurance Company.

The resolution of these lawsuits and HUD complaints provided far-reaching changes these companies' provision of homeowners insurance and the availability of insurance products in the Milwaukee area. The companies agreed to modify their underwriting guidelines in order to maximize the ability of residents of predominantly minority and racially integrated neighborhoods to procure comprehensive and affordable homeowners insurance products. Additionally, many of the companies agreed to provide funding for community and economic development activities in order to remedy the effects of their past acts of discrimination.⁹⁶

Despite the plethora of academic studies and legal action undertaken, individual complaints concerning discrimination in the insurance market are relatively rare. Insurance discrimination can be subtle, and without knowledge of underwriting policies and rate standards, it is difficult or impossible for homeowners seeking insurance to know that they have received unfavorable treatment.

Language Barriers in Obtaining Homeowners Insurance

In order to obtain comprehensive homeowners insurance, consumers must have a clear understanding of insurance products and property needs. The area of homeowners insurance can be very complex and technical; many homeowners, especially those purchasing their first home, may be confused or lack knowledge about the proper coverage necessary for their property. This confusion can be exacerbated when homeowners speak languages other than English, or for whom English is a second

⁹⁵ Ibid.

⁹⁶ William R. Tisdale and Carla Wertheim, "Giving Back to the Future" in *Organizing Access to Capital*, edited by Gregory D. Squires. Philadelphia: Temple University Press, 2003

language. In Milwaukee, the shortage of Hmong and Spanish-speaking insurance agents can be an impediment not only to minority homeownership, but also for obtaining proper insurance coverage for this group of consumers.

Impediment #20: Housing Sales and Rental Markets

Discrimination in the Sales and Rental Markets

A major impediment to housing choice is discrimination in the sale and rental of housing. In Milwaukee County racial discrimination remains the major form of discrimination in the housing market, as evidenced by MMFHC complaint data which indicates allegations of racial discrimination are the most frequently filed complaints. The protected classes of disability, family status, age and sex are also among the complaints most frequently taken by the Metropolitan Milwaukee Fair Housing Council. In recent years, some statewide and national complaint data indicate that discrimination based on a person's disability has surpassed race. According to HUD's 2007 Annual Report, this is due, at least in part, to the additional protections afforded persons with disabilities under the Fair Housing Act, e.g., the rights to reasonable accommodations and modifications, as well as the Act's requirements for accessible design and construction in multifamily housing.⁹⁷ It is unclear whether disability-based complaints or race-based complaints will be more prevalent in the long term.

Since 1978, MMFHC has conducted intake of more than 6800 complaints from individuals alleging violations of fair housing laws. Evidence generated by systemic investigations and complaints shows that despite legislation and enforcement efforts, discrimination remains a pervasive fact in the Milwaukee area. Since 1990, MMFHC has filed 15 patterns and practices lawsuits in federal court that alleged practices of discrimination on the basis of race, familial status and disability the rental market.⁹⁸

It is difficult to assess the severity of the problem of discrimination in the sale of homes in Milwaukee on the basis of the number of complaints that have been reported to the City or fair housing enforcement agencies. Typically, most people who are denied housing or offered unfavorable terms because of discrimination do not realize that discrimination has occurred. In other cases, people may be aware or suspect discrimination, but they may not know where to file a complaint, do not feel that it

⁹⁷ US Department of Housing and Urban Development, "State of Fair Housing, Annual Report on Fair Housing", 2007

⁹⁸ Although one lawsuit is still pending adjudication, the remaining 14 were either settled or ruled favorably for the plaintiff.

will be remedied, or do not want to be confrontational. In other cases, people may feel vulnerable and fear retaliation by a housing provider.

MMFHC complaint data reveal that members of all protected classes experience discrimination in the housing market throughout metropolitan Milwaukee. Complaints on the basis of disability and familial status follow complaints of racial discrimination as the most frequently filed with MMFHC. This is corroborated by data from *IndependenceFirst* - the number of housing-related calls received by that agency doubled between 2002 and 2004, and in 2007, accounted for a quarter of all calls. In surveys of people with disabilities by *IndependenceFirst* and other Centers for Independent Living, housing has consistently been ranked as one of the top issues of concern facing people with disabilities.

Lack of Spanish and Hmong-speaking Real Estate Brokers

As discussed in the section on homeowners insurance, it is essential for non-English speaking, or limited English speaking persons to have access to housing professionals who are bi- or multilingual. This assures that all homeseekers are afforded the same information and service when purchasing housing. With the burgeoning Hmong and Spanish-speaking populations in Milwaukee County, it is important to ensure an equal level of service be available to alleviate this impediment to fair housing choice.

Discrimination in the Advertising and Marketing of Homes

Advertisements of rental units or homes for sale may contain overt or subtle forms of discrimination. Advertisements that state restrictions such as “Adults Only” or “English speaking preferred” are obvious examples of such discrimination. The most common form of advertisements that pose an impediment to fair housing communicate racial, religious, marital, family, sexual orientation, and other preferences that dissuade persons from applying for housing.

In Milwaukee, recent examples of discriminatory advertising identified by MMFHC are printed advertisements and “For Rent” signs that have included phrases such as “Adults Only”. Other advertisements identified by MMFHC have included phrases such as “Married Couples” and “Christian handyman preferred”. MMFHC has filed complaints with administrative enforcement agencies in order to ensure compliance in housing markets concerning these types of violations.

The proliferation of such illegal advertisements was far greater prior to 1990 when MMFHC began to file a number of administrative complaints against publishers and housing providers who placed such ads. As a result of these enforcement actions, there has been a marked decrease in the presence of such advertisements in local and generally distributed newspapers.

Additionally, the restrictive geographic placement of advertisements, for the purpose of limiting readership to a selected group of people, can be an impediment to fair housing. For example, some housing providers may prefer to place advertisements in publications that do not have a broad distribution in order to prevent attracting nonwhite applicants. Another form of advertising that may serve to limit or discourage applicants is the use of only white models in advertisements. This can convey a very subtle, but powerful, message as to housing providers' tenant preferences.

Recommendations

Recommendations provided to address and remedy the identified barriers to fair housing are the most critical element of this document. This section, therefore, should be used as a starting point for Milwaukee County to develop and implement a comprehensive fair housing action plan. The recommendations are categorized into:

- 1) *Milwaukee County Policy* recommendations – Milwaukee County has some level of direct control over implementation of these recommendations.
- 2) *Milwaukee County Municipal* recommendations – Milwaukee County should encourage the 18 communities in the County to implement these recommendations to improve their efforts to affirmatively further fair housing.
- 3) *State and Federal Policy*-related recommendations – Milwaukee County may have limited control over implementation of these recommendations, but to omit them from this report would leave readers with an incomplete understanding of the fair housing issues facing County residents. Milwaukee County should exercise whatever albeit limited power it has to enact these recommendations, such as through lobbying, advocacy or educational efforts.
- 4) *Private Market*-related recommendations – As in the category above, Milwaukee County’s ability to implement these recommendations may be limited, but those limitations do not completely absolve the County from attempting to execute these recommendations through whatever means at its disposal. Creative, proactive County initiatives could have a large impact on the elimination of fair housing impediments in the private market.

The following recommendations are not in any order of priority.

Milwaukee County Recommendations

Recommendation #1: Create and Implement a Comprehensive Affordable Housing Strategy

a. Improve Scope of the Consolidated Housing and Community Development Plan

Currently the County completes a five-year Consolidated Housing and Community Development Plan. The Consolidated Plan contains a variety of very pertinent housing data, but it does not include a strategy to better deconcentrate affordable housing throughout the municipalities in the County. Nor does it recommend housing policy beyond that funded by CDBG, HOME or the Rent Assistance Voucher programs. It is important that a Comprehensive Affordable Housing Strategy include effective recommendations to ensure participating municipalities' housing policies are affirmatively furthering fair housing, as required by federal regulation. The headings in italics below are aspects to be included in the Comprehensive Affordable Housing Strategy.

b. Fund an Affordable Housing Production Task Force

The County should establish and fund an Affordable Housing Production Task Force. This task force, comprised of private and not-for-profit housing experts, would be charged with identifying and securing federal and private funds to help subsidize the development of low-income and affordable housing. Emphasis should be placed on locating affordable housing in high job growth communities, on transit line, and without contributing to existing concentrations of minority or low income populations.

c. Evaluate the County's Supply of Affordable Housing

Milwaukee County's affordable housing supply is concentrated in a few communities. This disparity in the location of affordable housing means that households with lesser means and greater social service needs locate in those communities. The concentration of this population not only causes a strain on those communities' resources, but also creates a concentration of poverty in the City of Milwaukee and several inner-ring suburbs. The County should reevaluate its supply of affordable housing and take steps to promote affordable housing within its own borders and advocate for affordable housing development within low-poverty areas.

d. Identify and Overcome Housing Production Impediments

The County should convene discussions with for-profit and not-for-profit housing producers and lenders regarding impediments to the production of accessible, affordable, and large (4 or more bedrooms) housing units. Further, this consortium should identify the challenges in producing such housing, as well as develop recommendations for policy changes on federal, state, and local levels. A secondary outcome of this consortium would to educate for-profit developers about current tools available for the production of affordable housing. Lastly, this coordinated approach may be used to encourage for-profit and not-for-profit housing developers to consider partnering on affordable, accessible and large unit housing projects.

Recommendation #2: Improve Effectiveness of Milwaukee Rent Assistance Program

a. Develop a Plan and Activities to Encourage Landlord Participation in the Rent Assistance Program

According to the director of Milwaukee County's Rent Assistance Program, approximately 80% of current voucher holders are living in the City of Milwaukee. This segregation occurs despite the Program's policy that allows for a higher fair market rent in communities outside the City. Areas that are underrepresented by voucher holders should be identified, and targeted for increased landlord recruitment.

b. Educate Rent Assistance Program Participants about the Ability to Use Vouchers at Rental Rates Above HUD Guidelines

Even though the Housing Choice Voucher program is countywide, 80% of the vouchers are utilized in the City of Milwaukee. In an attempt to counter this trend, the County's Rent Assistance program allows participants to use their housing choice vouchers for housing with rents up to 20% higher than HUD rent guidelines. This ability should be more aggressively promoted within the Rent Assistance Program.

Recommendation #3: Support Comprehensive Fair Housing Services

a. Continued Support of Metropolitan Milwaukee Fair Housing Council

The County should continue support of the Metropolitan Milwaukee Fair Housing Council, which provides comprehensive fair housing services by conducting housing discrimination complaint intake, case management, investigation and legal referral services to victims of discrimination; investigations of systemic forms of illegal discrimination; outreach and education throughout the community; anti-predatory lending activities; and research and advocacy on community and economic development issues.

b. Training for County Staff and Elected Officials

As part of the partnership between MMFHC and Milwaukee County, the staff of the County Board and appropriate County departments should be trained and familiarized with the services of MMFHC to facilitate referrals of fair housing and fair lending inquiries.

c. Outreach to Linguistically Isolated and Bilingual Communities

The County should facilitate the formation of a partnership with organizations that serve non-English speaking or persons with limited English proficiency to develop a proactive approach to reach these linguistically isolated populations on fair housing and fair lending issues.

d. Mobility Program

The County should incorporate counseling for persons desiring to make pro-integrative housing moves, either in the rental or sales markets, into its existing housing assistance programs (including its First-time Homebuyer and Rent Assistance Programs). Assistance would take the form of counseling about non-traditional neighborhoods, neighborhood tours, community profiles to market neighborhoods in the County and financial incentives such as down payment or security deposit assistance.

Recommendation #4: Support Anti-Predatory Lending Activities

a. Support MMFHC's STOPP Program

Support of MMFHC's anti-predatory lending program, Strategies To Overcome Predatory Practices (STOPP), is a critical component of the fight against illegal lending practices in Milwaukee County. This collaborative network of lenders,

housing counseling agencies, community groups, the Legal Aid Society and government representatives has successfully initiated measures to reduce these abusive loans in the County. It is in the County's interest to financially support and increase its participation in STOPP's efforts.

b. Support a Consumer Rescue Fund for Victims of Predatory Lending

Milwaukee County should use its relationships with responsible area lenders, urging them to work with MMFHC and Fannie Mae to participate in a Consumer Rescue Fund (CRF). CRF loans remediate and refinance predatory loans by providing the consumer a loan they can afford, and is appropriate for their circumstances.

Recommendation #5: Improve Community Reinvestment Utilizing the Community Reinvestment Act (CRA)

a. Hold Local Lenders Responsible

Milwaukee County leaders should institute an ordinance that requires lenders who want to do business with the County to provide the County with an annual statement of community reinvestment goals, including the number of small business loans, home mortgages, home improvement loans, and community development investments to be made within low- and moderate-income neighborhoods in the County, and holds lenders accountable for their work. This legislation should be similar to the ordinance passed in the City of Philadelphia in 2006.⁹⁹

b. Submit CRA Comment Letters

⁹⁹ The Philadelphia ordinance reads, in part, "City Depositories shall provide the City with an annual statement of community reinvestment goals including the number of small business loans, home mortgages, home improvement loans, and community development investments to be made within low and moderate-income neighborhoods in the City of Philadelphia. Each depository shall also certify compliance with Section 17-104 of The Philadelphia Code and provide the City with a long term strategic plan to address disparities in its lending and investment activities. *The strategic plan shall address how the depository will match or exceed peer lending performance in targeting capital access and credit needs disclosed in disparity studies commissioned by the City.* On July 1 of each year, the City Treasurer shall certify to the President of City Council whether or not each bank and institution on the list of potential City depositories set forth in this section has complied with each requirement of this subsection in the preceding fiscal year and shall withdraw all City funds from any bank or institution that has not complied with each requirement. No funds shall thereafter be deposited in such bank or institution until the bank or institution comes into compliance with each requirement and the City Treasurer has so certified to the President of City Council. The City Treasurer shall provide the President of City Council notification of the withdrawal of, and redeposit of, any City funds pursuant to this subsection."

Milwaukee County should, in collaboration with the municipalities within the County:

- i) comment on local bank mergers and acquisitions, as provided for in the federal Community Reinvestment Act (as a basis for the comment letters, MMFHC can provide municipal staff with data on the banks' record on lending, branching and servicing);
- ii) use the CRA comment letters to encourage banks to open additional branches in low- and moderate-income neighborhoods where check cashers and payday loan establishments are concentrated and no bank branches exist;
- iii) meet with lenders who want to close bank branches in low- and moderate-income neighborhoods, in an effort to discuss the needs of those communities and how those needs will be met without a bank branch nearby; and
- iv) encourage lenders to provide the community with alternatives to check cashing establishments.

Recommendation #6: Support Local and Statewide Financial Literacy Efforts

Milwaukee County should promote – monetarily or otherwise – financial literacy education programs, both for adults and youth. In addition, County Treasurer staff should meet with representatives from the City of Milwaukee and the other communities in the County, and ask them to join with the County to form and fund a comprehensive plan to help educate residents about the costs of doing business with fringe financial establishments such as payday lenders, check cashers, and predatory home mortgage lenders.

Recommendation #7: Support a Countywide Housing Trust Fund

Milwaukee County should support the development of a local Housing Trust Fund (HTF) – a new, ongoing, dedicated source of revenue to support affordable housing. The HTF could be administered by the County and support a wide range of housing, including: permanent housing services for the homeless, the development and preservation of affordable rental units as well as supporting first-time homebuyers and preserving the homes of existing homeowners.

Recommendation #8: Produce an Annual Report of Lending Practices in Milwaukee County

The County Treasurer's Office should produce and distribute an annual report of lending activity in Milwaukee County. A similar report is produced by the City of Milwaukee, *City of Milwaukee Annual Review of Lending Practices of Financial Institutions*. A Countywide report containing similar analyses would be a valuable resource in the County's ability to analyze lending patterns and respond to lending patterns that harm County residents.

Recommendation #9: Fund a Renter Education Program

The County's CDBG program should fund a Renter Education Program, such as RentSmart¹⁰⁰ to educate tenants and prepare them for the rights and responsibilities of renting as well as prepare them for homeownership. The University of Wisconsin – Extension, MMFHC, Legal Action of Wisconsin, IndependenceFirst and other appropriate organizations could work together to create such a program.

Recommendations for Both Milwaukee County Municipalities and Milwaukee County**Recommendation #10: Review and Amendment of Local Fair Housing Ordinances**

Each suburban community, as well as Milwaukee County, should conduct a thorough review of its fair housing ordinance to evaluate whether the protections, prohibited practices, penalties and enforcement mechanisms are at least as comprehensive as existing federal and state fair housing laws. Based on the general analyses of these ordinances, some of the necessary amendments include:

¹⁰⁰ Rent Smart is a teaching guide, developed by staff from the University of Wisconsin – Extension in consultation with a variety of other organizations. The program stresses information that can help participants succeed as tenants and avoid confrontations and legal disputes. A certificate is awarded to participants who successfully complete the training.

-
- Inclusion of protected classes as covered under state and federal fair housing laws.
 - Clarification of definitions and expansion of persons protected and practices prohibited.
 - Expansion of protections for persons with disabilities. This includes provisions relating to service animals, reasonable accommodations and modifications for persons with disabilities, as well as inclusion of design and construction provisions to expand access for persons with disabilities.
 - Expansion of protection to all segments of the housing market, including homeowners insurance and all facets of the lending transaction.
 - Repealing illegal prohibitions against testing to investigate housing discrimination.
 - Clarification and strengthening of local enforcement mechanisms within the communities. A process for the intake, investigation and adjudication of complaints should be clearly described and should be explicit in delineating the steps and options in remedying a violation.
 - Designating the appropriate resource for referrals of complaints (e.g. not the Building Inspector, Wisconsin Department of Commerce, village clerk, etc.).
 - Specifying and increasing penalties for violations of the law. Penalties should be increased to provide a true punitive and deterrent effect. In order to provide consistent enforcement efforts, the ordinances should be amended to reflect civil forfeitures as provided in federal and state fair housing laws.
 - Include relief for victims of housing discrimination in the form of compensatory and injunctive relief. In order to provide consistent enforcement efforts, the ordinances should be amended to reflect such relief as found in federal and state fair housing laws.
 - Revisions and amendments of ordinances to reflect statute of limitations contained in federal and state fair housing laws.

Recommendation #11: Ongoing Monitoring of Local Fair Housing Ordinances

Each community and Milwaukee County should periodically monitor and conduct annual reviews of their fair housing ordinances to ensure they are at least as comprehensive as current federal and state fair housing laws.

Recommendation #12: Fair Housing Training for Local Authorities

Persons or entities designated with the responsibility to review and adjudicate fair housing complaints must be adequately trained to fulfill their statutory mandates. This includes the members of fair housing boards or commissions with the designated enforcement powers.

Recommendation #13: Fair Housing Boards and Commissions Should Conduct Meaningful Activities

Those communities which have designated fair housing commissions or boards to enforce their ordinances, cannot allow those bodies to be merely “paper tigers”. It is necessary to conduct regular meetings and activities to further fair housing within their respective communities.

Recommendation #14: Fair Housing Training for “First Point of Contact” Staff

Local communities must build in safeguards to ensure that persons requesting assistance for possible fair housing violations obtain timely and accurate information from anyone who may answer a phone or field fair housing inquiries from the public. Local staffs must receive training to ensure referrals are made to appropriate sources that conduct fair housing services. Such training is available through public and private enforcement agencies.

Recommendation #15: Utilize Tax Incremental Financing (TIF) to Produce Accessible Housing

Milwaukee County should advocate for its participating municipalities to more assertively use TIF to increase the production of accessible housing units for persons with disabilities. For instance, TIF approval evaluation criteria could prioritize residential development projects that include accessible housing. Municipalities should partner with local Independent Living Centers and other disability rights advocacy groups to research more creative ways for their use of TIF to produce affordable, accessible housing.

Recommendation #16: Utilize Tax Incremental Financing (TIF) to Produce Affordable Housing

The County should promote the use of TIF to create more affordable housing units within its participating communities. TIF approval evaluation criteria could prioritize residential development projects that include affordable housing. Partnerships with local community development groups and affordable housing developers (such as Local Initiatives Support Corporation and other CHDOs) should be established to research more creative ways for municipalities to use TIF to produce affordable housing.

Recommendation #17: Promote Integrated Neighborhoods through Inclusionary Zoning

The County should urge local communities to pass inclusionary zoning ordinances. An inclusionary zoning ordinance is a tool designed to increase the economic integration of a community. It is a land use regulation mandating a percentage (usually 15-20%) of the housing units in any project above a given size, be affordable to people of low and moderate incomes. The County should promote this model to its participating municipalities as part of their obligation to affirmatively further fair housing. Communities should work with local housing organizations and the local housing industry to research an inclusionary zoning ordinance that produces a maximum of affordable units. Communities should research the successful use of such inclusionary zoning in other communities to replicate for use in its jurisdiction.

Recommendation #18: Review Zoning Ordinances Regarding Community Living Arrangements

The County should strongly urge communities within the county to partner with disability advocacy groups, such as Disability Rights, Inc., IndependenceFirst and others, to review and analyze the Community Living Arrangements section of its zoning ordinance. The language should be reviewed in terms of current and future legal implications and potential liability of the municipalities, as advocates have successfully challenged similar municipal ordinances (Greendale, Glendale, Greenfield and Milwaukee) as violations of the Federal Fair Housing Act.

State and Federal Recommendations

Recommendation #19 Advocate that HUD Expand Definition of “Homelessness”

The U.S. Department of Housing and Urban Development’s (HUD) current definition of homelessness is too narrow and excludes many groups. Persons on the verge of homelessness (households facing eviction, households that are doubled up in one housing unit, etc.) are unable to access Shelter Plus Care¹⁰¹ vouchers, a HUD program administered by the County, because they are not currently defined as homeless. An expanded definition, agreed upon among national advocates, is to include people who are sharing the housing of others due to loss of housing, economic hardship, or a similar reason, and people living in motels due to a lack of alternatives.¹⁰² This broadened definition would allow persons to avoid actually living on the street before they are eligible for the housing assistance.

Recommendation #20: Advocate for Changes in State and Federal Programs to Expand Affordable Housing Options

a. Advocate for Additional Section 8 Housing Choice Vouchers

Milwaukee County should facilitate a meeting with local HUD officials, as well as Wisconsin’s U.S. Senators and Representatives, to discuss the adverse impact of recent HUD actions. Specifically, these discussions should emphasize the deleterious effects of the HUD budget cuts and administrative changes within the Housing Choice Voucher Program on the County and its residents. The Milwaukee County should advocate for additional Housing Choice Vouchers or alternative means to meet the need of low-income residents.

b. Advocate for Affordable Housing Production Resources

Milwaukee County should facilitate a meeting with state and federal elected officials to advocate for additional financing resources to build affordable housing, particularly for extremely low-income persons.

c. Advocate for Revisions to WHEDA’s Low Income Housing Tax Credit (LIHTC) Program Allocation Scoring

¹⁰¹ Shelter Plus Care is a HUD program designed to provide housing and supportive services on a long-term basis for homeless persons with disabilities, and their families who are living in places not intended for human habitation or in emergency shelters.

¹⁰² Recommended definition comes from the National Policy and Advocacy Council on Homelessness (http://www.npach.org/expand_def.htm)

WHEDA's tool for scoring LIHTC applicants, the Qualified Allocation Plan (QAP), gives preference to development projects that have community support. As discussed in a previous section, this allows opposition to needed affordable housing to have a chilling effect on LIHTC applications. Milwaukee County should advocate that WHEDA develop a scoring mechanism that calculates the need for affordable housing based on the wages and salaries of the employment opportunities in that municipality and eliminates the provisions by which developments receive additional scoring points awarded for community support of projects. For example, if a community has a large supply of expensive, unaffordable housing, yet a workforce with many low-paying retail jobs, points could be awarded based on the need in that community for housing which is affordable to those low wage earners.

d. Participate in SEWRPC's Regional Housing Strategy

The development of a Regional Housing Strategy for the seven-county region is a vital component of addressing regional racial and economic segregation. All communities should plan for an adequate amount of housing to serve all income levels, particularly income levels created by the salaries and wages of the employers in each community. The Southeastern Wisconsin Regional Planning Commission (SEWRPC) is scheduled to begin this study in 2008; Milwaukee County should play a primary role in this planning effort to ensure urban issues such as concentration of poverty and racial segregation are properly addressed.

Private Market Recommendations

Recommendation #21: Advocate for Open and Inclusive Real Estate and Rental Markets

Milwaukee County should advocate for more open and inclusive home rental and sales markets by working with the housing industry:

- Work cooperatively with the real estate industry and its trade associations to develop ways for local agents to become more familiar with all neighborhoods in Milwaukee County. For example, facilitate relationships between local real estate professionals and community groups to conduct neighborhood tours, homebuyers fairs and other activities to promote stable neighborhoods and pro-integrative moves.
- The County should use its relationships within the housing industry to encourage housing providers to seek training from MMFHC. A recent MMFHC training held in West Allis that received higher-than-usual levels of publicity was attended by nearly 60 members of the rental housing industry, indicating that marketing such programs effectively helps meet demand for fair housing education.
- The County should continue to have its Rent Assistance Program staff trained by MMFHC on the provisions of fair housing laws and remedies available to their clients.
- Encourage greater efforts on the part of the lending, real estate and rental industries to hire and train minority and bilingual lenders, underwriters, real estate and rental professionals.
- Promote more active participation by providers of rental housing in local rent assistance programs to expand locational choice for low-income and minority residents.

APPENDIX A

Metropolitan Milwaukee's Segregated Housing Environment: A Timeline of Federal, State and Local Policies

1896

Plessy v. Ferguson establishes the “Separate and Equal” doctrine: The majority opinion in the case states that “[t]he object of the [14th] amendment was undoubtedly to enforce the absolute equality of the two races before the law, but in the nature of things it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political equality, or a commingling of the two races upon terms unsatisfactory to either.”

1910

Racially restrictive covenants, enforceable by courts of law, begin appearing on property deeds in Milwaukee and throughout the United States.

1916-1920

Use of racially restrictive covenants becomes common in metropolitan Milwaukee area. For example: in the City of Wauwatosa's Washington Highlands, covenants read: “At no time shall the land included in the Washington Highlands or any part thereof, or any building thereon be purchased, owned, leased or occupied by any person other than of white race. This prohibition is not intended to include domestic servants while employed by the owner or occupant of any land included in the tract.”

1921-1925

Garden Homes Housing Project developed as affordable housing on outskirts of City of Milwaukee. African Americans are excluded from participation. (1921) Milwaukee Mayor and Wisconsin Banking Commissioner work with white lenders to ensure that a separate credit market is established for African Americans. (1923)

The following language is introduced into the Realtor Code of Ethics (Article 34): “A Realtor should never be instrumental in introducing into a neighborhood a character of property or occupancy, members of any race or nationality or individuals whose presence will clearly be detrimental to property values in that neighborhood.” (1924-1950)

Milwaukee Board of Realtors meets to propose City Negro District, a “African American Belt” to restrict movement of African Americans in Milwaukee. (1924)

1931-1935

Stanley McMichael’s “Appraising Manual” becomes the standard for the appraisal profession. The manual states that “social or racial changes” are among signs of “invasion by incompatible uses” under the causes of “blighted” areas and appraisers are advised to observe whether there are “undesirable racial elements in the neighborhood” and, if so, whether they are likely to expand in a way that may injure the property. (1931)

Frederick Babcock’s The Valuation of Real Estate states that “[a]mong the traits and characteristics of people which influence land values, racial heritage and tendencies seem to be of paramount importance.” (1932)

The Federal Housing Administration (FHA) Underwriting Manual includes emphasis on race having adverse impact on property values. (1932)

The Federal Home Owners Loan Corporation (HOLC), part of the FHA, established a rating system for neighborhoods with “residential security maps” which included four categories. The least desirable areas, where financing was not available, were African American neighborhoods which were coded “red.” This is the origin of the practice later adopted by public and private lenders known as “redlining.” (1933)

FHA begins providing “model” race restrictive covenants and requires their use in obtaining FHA financing. (1934)

A Federal Public Housing Project (Parklawn) is proposed in the City of Milwaukee. Land contains race restrictive covenants and City decides to exclude African Americans. (1935)

The Wisconsin State Legislature defeats a bill that would have rendered race restrictive covenants unenforceable, a bill which was aimed at opening up Parklawn Public Housing Project to African Americans. A State Senator opposed to the bill stated: “This measure will destroy every lake resort, every real estate development in the state by letting down the bar to Negroes.” (1935)

1936-1940

Following a visit by Eleanor Roosevelt, Milwaukee officials agree to set aside a small number of units on a segregated basis (6 units in one building) at Parklawn Public Housing project for African American residents. (1937)

A new public housing project in suburban Greendale does not admit African Americans. (1937)

The FHA Underwriting Manual states, “[a]reas surrounding a location are investigated to determine whether incompatible racial and social groups are present, for the purpose of making a prediction regarding the probability of the location being invaded by such groups. If a neighborhood is to retain stability, it is necessary that the properties shall continue to be occupied by the same social and racial classes. A change in social or racial occupancy generally contributes to instability and a decline in values.” (1938)

A group of 18 African American homebuyers is denied financing to purchase properties on northwest side of City of Milwaukee due to race restrictive covenants required by FHA. (1940)

1941-1945

A Legal Guide for Wisconsin Real Estate Brokers adopts the Realtor Code of Ethics as standard for all real estate licensees doing business in the State of Wisconsin: “A Realtor should never be instrumental in introducing into a neighborhood a

character of property or occupancy, members of any race or nationality or individuals whose presence will clearly be detrimental to property values in that neighborhood.” (1942)

In Doherty v. Rice, the Wisconsin Supreme Court reverses a lower court decision which refused to enjoin African American family from living in an area where a covenant prohibited ownership or occupation by “*anyone not a member of the caucasian race.*” (1942)

The City of Milwaukee issues permits for two “Negro Housing Projects” with 42 units. The units were not built until Hillside Public Housing constructed at proposed site. (1943)

Public opposition is mounted to provision of temporary housing for Barbadian War Workers in suburban Hales Corners. (1944)

The Veteran’s Administration (VA) mortgage loan program adopted FHA’s discriminatory underwriting standards. (1944)

A plan to build “Negro Housing” in a white area in the City of Milwaukee is thwarted by officials after opposition by 200 whites. The white mob was led by a real estate agent who stated: “Negroes should be kept segregated as they are by the government in army camps.” (1944)

When an African American family attempts to move into a white neighborhood in City of Milwaukee, a meeting of white neighbors is convened and the family is “invited” to leave the area. One of the white residents stated, “the army puts them in a certain place in training, and that’s where they belong....the government puts darkies all in one place in war.” (1944)

Plans by African American families to build on lots located on Northwest side of City of Milwaukee are stopped. City officials unsuccessfully try to designate land for playground. When that fails, the City Attorney rules race restrictive covenants are enforceable and would prevent African Americans from occupying the land. (1944)

1946-1950

A Citizen's Governmental Research Bureau report finds that 67.7% of the dwellings occupied by African Americans in Milwaukee are in need of major repairs or are unfit for use, compared with 6.5% of the dwelling units occupied by the white population. The report also finds that 90% of land in the City of Milwaukee deeded since 1910 contains race restrictive covenants. (1946)

The Federal Office of the Housing Expeditor report finds it difficult to locate sites for "Negro Housing" because of racial deed restrictions and opposition from local residents: "Location of sites for housing for Negroes presents a difficult problem. The majority of the Negro population now is concentrated in the 6th Ward in downtown Milwaukee. This is a blighted area and although there are a few scattered vacant lots, favorable mortgage financing would be difficult to arrange without redevelopment of a large section . . . Development of vacant land in the outlying areas may be possible but deed restrictions and opposition from residents would likely be encountered in many sections." (1947)

African Americans are excluded from Realtor Boards, and the Realtists, a minority professional association, is formed in response. (1947)

Shelley v. Kramer makes race restrictive covenants unenforceable in courts but did not outlaw use of covenants as private agreements. (1948)

In a speech to the Madison Realty Association, the Wisconsin Assistant Attorney General assures Realtors that Shelley v. Kramer does not outlaw use of race restrictive covenants. (1949)

An African American veteran's family is forced to move from Veteran's Trailer Park in Greenfield after 400 of the 1500 white residents staged a demonstration. (1949)

None of the Veteran's Housing Projects constructed in Milwaukee will accept African American veterans and all African American veterans are referred to the Hillside Public Housing project, which is in an African American neighborhood. (1949)

1951-1955

Race restrictive covenants continue to be placed on properties throughout 1950's and into the 1960's, despite the fact that the State of Wisconsin passes legislation prohibiting enforcement of race restrictive covenants. (1951)

The Village of Menomonee Falls scales down a development of pre-fabricated homes from 1000 to 100 units after residents express fears that "colored residents might become part of the community." (1954)

The Brown v. Board of Education decision promulgates the legal opinion that "separate is inherently unequal." (1954)

In revisions to FHA Underwriting Manual, direct references to race are dropped, but its meaning is largely unchanged in rating neighborhoods: "...if the occupancy of the neighborhood is changing from one user group to another, or if the areas adjacent to the immediate neighborhood are occupied by a user group dissimilar to the typical occupants of the subject neighborhood or a change in occupancy is imminent or probable, this risk should be reflected in the rating." (1955)

(Note: Between 1930 and 1950, 3 out of 5 homes purchased in US were financed by FHA, yet less than 2% of FHA loans were made to non-white buyers.)

Zeddie Hyler, the first African-American to move to Wauwatosa, suffered \$800 damage to his unfinished home and received threatening and abusive phone calls. (1955)

1956-1960

African American real estate agents and brokers are not permitted to join Milwaukee Board of Realtors. Nationally, out of 1229 Boards of Realtors with 58,744 members, only 8 Boards permitted African Americans to join and there were fewer than 25 African American Realtors in the nation. (1956)

An African American soldier in the 401st Missile Battalion is turned away from 28 mobile home parks in Milwaukee area. The soldier is forced to sell his trailer and is ultimately reassigned to an Oklahoma military base. (1957)

Building Boards and Aesthetic Boards are formed in many Milwaukee suburbs to maintain standards and approve building plans. Some Boards try to prevent African Americans from building in communities throughout the 1950's and 1960's.

An African American school teacher seeks approval to build a home in Wauwatosa. A Wauwatosa Building Board member comments, “[t]hey [Negroes] ought to have to build way better than the houses around them. There’s depreciation just by their moving in.” (1956)

The Federal Highway Act launches a major road construction program that encourages many middle-class Americans to relocate to the suburbs and destabilizes many poor urban areas. (1956)

Alderwoman Vel Phillips becomes Milwaukee’s first African American City Council member (1956-1971).

When Milwaukee’s inner city schools were being remodeled or were overcrowded, African American children are bused “intact” from overcrowded schools to “host” schools where they were taught in their own classrooms with their own teachers and kept separate for lunch periods and on the playground. (1957)

Sol Ackerman, City of Milwaukee urban renewal coordinator, received 40 negative replies from suburbs to the City’s request that they build a small number of low-cost homes for families displaced by expressways and urban renewal. (1957)

By 1960 the Milwaukee City Housing Authority had built only 1,880 public housing unit – less than half the average number of low-income housing units built per 1,000 residents for 15 other large cities. (1960)

Four hundred white residents of Milwaukee's south side assemble to voice opposition to public housing proposed in their neighborhood based on the fact that African Americans might occupy the housing. (1960)

1961-1965

Attorney Lloyd Barbee leads a 13-day sit-in at the State Capitol in Madison to highlight the need for a state fair housing law. (1961)

The National Association for the Advancement of Colored People (NAACP) holds campaigns against discrimination in housing. President John F. Kennedy signs Executive Order 11063, which outlaws housing discrimination in activities involving the federal government, including financing insured by the FHA or guaranteed by the VA. (1962)

Milwaukee Alderwoman Vel Phillips first sponsors a City Open Housing Ordinance which is defeated by an 18-1 vote. She introduces the ordinance four more times, and it is defeated each time. (1962)

President Kennedy signs Executive Order 11063, which orders the federal government to take “all action necessary and appropriate to prevent discrimination because of race, color, creed, or national origin in federally financed or insured housing programs.” (1962)

The 1964 Civil Rights Act is passed. Title VI of the Act prohibits discrimination in all programs receiving federal assistance, including housing. (1964)

In protest over the fact that African American school-aged children were becoming more and more segregated, State Representative Lloyd Barbee organized the Milwaukee United for School Integration Committee (MUSIC), which conducted a three-day boycott of Milwaukee Public Schools by African American parents and children. (1964)

Public officials attempt to stop African American home builder from building a home in Mequon by re-routing an existing road through his land. The house was built, but the builder unable to build other homes in area. Mequon's mayor stated that a "Negro Building Ban" was in effect from 1961-1964.

The City of Greenfield rejects development of an apartment complex due to concerns that it will house non-white residents. (1963)

The Milwaukee Board of Realtors admits first African American Realtor as Member. (1963)

A Milwaukee Urban League statement in 1965 pointed to the increasing segregation of not only school children but their teachers: "86.5% of Negro teachers and 90.3% of Negro students are assigned to schools in the area bounded by Capitol Drive on the North, 27th Street on the West, Wisconsin Avenue on the South and Lake Michigan on the East; a situation which reflects a predominant assignment of Negro teachers to 'Negro' schools."

The State of Wisconsin passes the Wisconsin Open Housing Law, which prohibits discrimination in housing. At the time, it was estimated that only 25-33% of the housing in the City of Milwaukee was covered by the new law. The new law also prohibits testing as a method of investigating illegal housing discrimination. Wisconsin is the only State in the U.S. to include testing prohibition in its fair housing law. Violators of the law were fined only \$10 to \$200. (1965)

Father James Groppi and the NAACP Youth Commandos picketed the home of Circuit Court Judge Robert C. Cannon because of the judge's membership in the all-white Eagles Club of Milwaukee. (1965)

In 1965 Attorney Barbee filed a lawsuit in U.S. Federal District Court on behalf of 32 African-American parents and children and nine white children charging a denial of the children's right to an equal educational opportunity by virtue of the Milwaukee Public School Board's policies and actions.

1966-1970

A *Milwaukee Journal* article concludes that “urban renewal...was responsible for forcing many families into moving out of one slum into another.” (1966)

The Village of West Milwaukee rejects the creation of a Housing Authority because, as one Village official stated, “[y]ou can’t hold back race, color or creed.” (1966)

Father James Groppi and NAACP Youth Commandoes lead 145 days of Open Housing Marches in Milwaukee in an effort to force City of Milwaukee to pass Open Housing Law (August 28, 1967 to January, 1968)

White Milwaukee citizens successfully petition the City of Milwaukee to hold a referendum which stated: “[t]hat the Common Council of the City of Milwaukee shall not enact any ordinance which, in any manner, restricts the right of owners of real estate to sell, lease or rent private property.” (1967)

James Otey, an African American resident of Milwaukee, files a lawsuit challenging the constitutionality of the referendum and asks a Federal Court to restrain the City of Milwaukee from holding the property rights referendum. (1967)

FHA changed its policy both locally and nationally and started to actively encourage lenders to make FHA insured loans in the inner city. (1967)

Amidst simmering tensions over poverty and race relations, a riot breaks out in the City of Milwaukee that ends with three people dead. (July 1967)

The *Kerner Commission Report* attributed the cause of riots across the country to anger with the conditions of racial oppression and economic deprivation that had been allowed to fester in ghettos for 60 years. (1967)

Milwaukee’s Common Council passed an open housing ordinance on December 12, 1967, which duplicated the State law.

The Federal Fair Housing Act is enacted as Title VIII of the Civil Rights Act, largely as a reaction to the assassination of Dr. Martin Luther King, Jr. (1968)

The attitudes of many whites are openly hostile regarding the open housing ordinance in City of Milwaukee, and an organized opposition developed that was able to amass 27,000 signatures petitioning the Common Council to put the ordinance to the test of a popular vote in the form of a citywide referendum. District Court Judge Robert Tehan issued a permanent injunction against holding such a referendum on the constitutional grounds that it would be in violation of the equal protection clause of the 14th Amendment. Judge Tehan stated, “[r]ace is a factor of almost transcendent significance [when African American] home buyers or lessees, wishing to leave the inner City, are faced with barriers of discrimination which few have been able to overcome. When housing outside the inner City is sought, attributes otherwise crucial in choosing buyers and tenants, such as ability to pay, educational background, demeanor, reliability and stability, are not even investigated by sellers and landlords after the color of the applicant is discovered.” (1968)

The Wauwatosa Common Council turned down nearly \$1 million in Community Development Act funds for fear that acceptance of it would require building up to 200 low- and moderate-income housing units. (1968)

Housing Act of 1968 establishes the Government National Mortgage Association (Ginnie Mae) to expand availability of mortgage funds for moderate-income families using government-guaranteed mortgage-backed securities.

A decision in Jones v. Mayer states that the Civil Rights Act of 1866 provides fair housing rights: “All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property. . . For this Court recognized long ago that, whatever else they may have encompassed, the badges and incidents of slavery--its burdens and disabilities--included restraints upon those fundamental rights which are the essence of civil freedom. . . Just as the African American Codes, enacted after the Civil War to restrict the exercise of those rights, were substitutes for the slave system, so the exclusion of Negroes from white communities became a

substitute for the African American Codes. And when racial discrimination herds men into ghettos and makes their ability to buy property turn on the color of their skin, then it too is a relic of slavery.” (1968)

Exclusionary zoning and restrictive building codes adopted by Milwaukee suburbs in order to restrict Section 235 housing and other affordable housing, and fear of African Americans moving in is cited as the motivating force. (1970-80)

The Housing and Urban Development Act of 1970 provides federal financial support to encourage the creation of new communities with housing for all income levels. To make public housing more affordable to the poorest tenants, the 1969 Brooke Amendment caps rent payments at 25% of income. However, the amendment also tends to make public housing an option of “last resort,” with a concentration of poor families. (1970)

A 1970 study, “African American Powerlessness in Milwaukee Institutions and Decision-Making Structures,” documented the lack of formal authority, influence, and discretionary use of funds available to African Americans. There were no African Americans in policy making positions in business and industrial concerns, law firms, banks, stock brokerage firms and insurance firms, and no African Americans serving as presidents, financial secretaries, or business representatives of local unions. There were only five African Americans elected to City, County or State public office out of 121 from the Milwaukee area.

Throughout the 1970s, all Milwaukee suburbs failed to accept their “fair share of low-to moderate-income housing” as recommended by the Southeastern Wisconsin Regional Planning Commission.

After reviewing federal housing policy and programs, Congress passes the Housing and Community Development Act. This legislation rewrites the U.S. Housing Act of 1937, making the Section 8 rent subsidy program the major vehicle for federal housing assistance. The 1974 act also folds urban renewal, Model Cities, and other development programs into the Community Development Block Grant program. (1974)

The Federal Fair Housing Act is amended to prohibit sex discrimination in housing. (1974)

The Wisconsin Open Housing Law is amended to prohibit sex discrimination in housing. (1975)

A decision in U.S. v. Wisconsin finds that the anti-testing provision in Wisconsin Open Housing Law “chills the exercise of the right to equal housing opportunity” and conflicts with the principal objective of the federal Fair Housing Act. (1975)

1976-1980

A racial steering lawsuit is filed against the four largest real estate companies in Milwaukee based on testing evidence (Sherman Park Community Association et al. v. Wauwatosa Realty et al.) (1977)

The City of Milwaukee Housing and Redevelopment Authority carries out inequitable relocation policies in moving African American families who were to be displaced because of construction of public housing and urban renewal. African Americans were almost always relocated within the inner city and were sometimes returned to a situation of doubling-up and overcrowded conditions. The City’s failure to carry out a policy that would help find alternative housing in other parts of the city strengthened the strong patterns of segregation that already existed in Milwaukee. (1976)

Congress passes the Community Reinvestment Act. (1977)

HUD financed the Housing Market practices Study conducted in Milwaukee, which finds racial discrimination widespread in the sale and rental of housing. (1977)

The Metropolitan Milwaukee Fair Housing Council is formed. (1977)

1976-1980

U.S. v. American Institute of Real Estate Appraisers determines that the Fair Housing Act applies to real estate appraisers. A resulting settlement requires revision of textbooks and adoption of new policy statements of non-discrimination. (1977)

The Wisconsin Open Housing Law is amended to eliminate the prohibition of testing; penalties are increased to up to \$10,000; the protected classes of marital status, lawful source of income, age and disability are added; and complainants are granted the right to file fair housing lawsuits in state courts. (1979)

In the decision in Holland v. Milwaukee County, a federal court case, Milwaukee County's rent assistance program is found to have maintained waiting lists that provided preferences for white home seekers. Such practices, however, remained an issue, with whites having many more housing choices than minorities within the metropolitan housing market. (1980)

Hartford attempts to block construction of 16 units housing for farm workers (1980)

Racially motivated opposition to proposals to build new subsidized housing emerges in many suburban communities including Cudahy, Franklin, Glendale, Menomonee Falls, New Berlin, Sussex, South Milwaukee, Waukesha, and Wauwatosa.

1981-1985

Wisconsin becomes first State in US to prohibit discrimination in housing based on sexual orientation. (1982)

The Milwaukee School Board files a federal lawsuit against 24 suburban school districts to try to gain area-wide school integration. The suburbs are charged with maintaining all-white school systems and perpetuating a pattern of housing segregation. In 1987, after two years of negotiations and 10 days of court testimony, an out-of-court settlement is reached which involved busing of over 4,500 African American students to suburban schools at state expense. (1984)

The Housing Office of Milwaukee Area Technical College accused of discriminating against minority students in provision of off campus housing. (1985)

Cross burnings and other acts of racial harassment in suburban communities of Brown Deer, Oak Creek, St. Francis, South Milwaukee, Wauwatosa and West Allis are reported to MMFHC. (1980-1988)

1986-1989

Congress enacts the Low-Income Housing Tax Credit program, which awards tax credits competitively through the states to private housing providers. This program has become the principal mechanism for preserving and producing affordable housing. (1986)

Complaint filed against City of Waukesha for discriminatory residency preference in its Section 8 Rental Assistance Program. (1988)

Congress amends the federal Fair Housing Act to add familial status and disability as protected classes; to create a formal administrative hearing process; to expand the powers of the U.S. Department of Justice in enforcement of the law; and to eliminate the cap on punitive damages and add civil penalties. (1988)

A Pulitzer Prize winning series of articles in the *Atlanta Constitution* in 1988 found Milwaukee with the highest African American-to-white mortgage home loan rejection rate in the county with African Americans being rejected four times as often as whites. Subsequently, with assistance from the City of Milwaukee, a Fair Lending Coalition was formed to gain greater cooperation from banks and lending institutions in offering home loans and home repair loans under the Federal Community Reinvestment Act.

Twenty-three out of 25 Milwaukee suburbs rejected a proposal by the City of Milwaukee to place two units of public housing in each suburb. (1989)

1990

The HOME Investment Partnerships Block Grant program is devised to assist state and local governments in providing low-income housing. Intermediary organizations, such as the Local Initiatives Support Corporation (LISC) and the Enterprise Foundation, are created to assist private providers.

A landmark case of home insurance redlining is filed in the U.S. Federal District Court by the City of Milwaukee, Attorneys William Lynch and James E. Hall, Jr., representing the ACLU, and the NAACP, challenging the home insurance policies sold by the American Family Insurance Company. Documents are filed showing that white agents were told by their superiors, both orally and in writing, to avoid selling insurance to African Americans. The merits of the lawsuit were first rejected by the U.S. District Court in Milwaukee, but on appeal the U.S. Seventh Circuit Court of Appeals in Chicago ruled that inferior insurance policies or charging more money for less coverage in a confined geographical area amounted to a violation of the federal Fair Housing Act. A monetary award of \$5 million is eventually granted to compensate the homeowners and \$9.5 million was granted for housing programs in Milwaukee.

1991-1993

Eleven out of 18 Milwaukee County suburbs have fewer than one percent African Americans living within their borders; only two suburbs had as high a percentage as five to seven percent minority residents. (1991)

The Milwaukee County Board of Supervisors approves a fair housing ordinance. (1992)

The federal HOPE VI (Homeownership and Opportunity for People Everywhere) program is created to replace distressed public housing with mixed-income developments. (1993)

1998

The Quality Housing and Work Responsibility Act is enacted to reform the public housing program.

2003

Congress passes the American Dream Down Payment Act, administered under HUD's HOME Investment Partnerships program. The act enables eligible low-income families who are first-time homebuyers to receive a maximum down payment assistance grant of either \$10,000 or 6% of the purchase price of the home, whichever is greater.

Sources:

National Building Museum, "Affordable Housing: Designing an American Asset" Exhibit, February 28 – August 8, 2004

Fred Freiberg

APPENDIX B

2008 AT LARGE PROJECTS APPROVED		
Sponsor	Project	Amount Received
30th St. Industrial Corridor Corp	Job Creation/Economic Revitalization	15,000.00
Agape Community Center, Inc.	CareerWorks	15,000.00
Asha Family Services, Inc.	Transitional Living Center	15,000.00
Bethesda Community Sr Citizen's Center	Furnace and A/C	30,000.00
Boys & Girls Club of Milwaukee	Teen Center Renovation	40,000.00
Center for Veteran's Issues	Affordable Permanent Housing	30,000.00
Comm. Business Dev. Partners	Technical Assistance/Capacity Building	30,000.00
Council for the Spanish Speaking	614 Building Renovation & Repair	28,000.00
Eisenhower Center, Inc.	Carpet Replacement	30,000.00
Harambee Ombudsman Project, Inc.	Housing Construction	15,000.00
Hmong American Friendship Assoc., Inc.	Garage Renovation	30,000.00
Hunger Task Force, Inc.	House of Correction Work Farm	15,000.00
Independence First	Central City Satellite Project	15,000.00
Journey House, Inc.	Workforce Development & Employability Prog.	15,000.00
Latino Community Center	Renovate Bathrooms	25,000.00
Legal Aid Society of Milwaukee, Inc.	GAIN Project	15,000.00
Milwaukee Christian Center	Kids Place II at Kosciuszko Comm. Center	15,000.00
Milwaukee County Econ. & Comm. Dev.	Residential Architectural Barrier Removal	40,000.00
Milwaukee County Parks	Lindbergh Park Basketball Court	60,000.00
Milwaukee Urban League	Minority Contractors Involvement Program	15,000.00
My Home, Your Home Inc.	Repair/Replace HVAC	20,000.00
Northcott Neighborhood House	Facility Upgrade	20,000.00
Southeastern Youth & Family Services	Rolling Stone Group Home Renovation	27,000.00
St. Catherine Residence, Inc.	Capital Needs	20,000.00
St. Vincent de Paul Society	Roof, Gutter and Tuck Pointing of Building	25,000.00
Transitional Living Services, Inc.	60th St. Properties Exterior Repairs	25,000.00
Tri Corp Housing, Inc.	West Samaria Improvement Project	30,000.00
WI Community Services, Inc.	WCS Learn and Earn	20,000.00

WI Women's Business Initiative Corp.	Microenterprise Dev. Continuum	25,000.00
Word of Hope Ministries, Inc.	Job Creation	15,000.00
Metropolitan Milwaukee Fair Housing	Fair Housing Services	25,000.00
CDBG Admin 2008		287,518.00
	TOTAL	1,032,518.00

2008 MUNICIPAL PROJECTS RECEIVED		
Sponsor	Application Title	Amount Requested
Bayside	Ellsworth Park ADA Accessible Pathway	0
Bayside	Lion's Gate Restoration	24,152
Bayside	Sr Citizens Center Operations	0
		24,152
Brown Deer	Operation Costs for Sr. Citizen Center	6,105
Brown Deer	Village Hall Restroom ADA Accessibility	34,595
		40,700
Cudahy	Exterior Property Maintenance Program	10,900
Cudahy	Interfatih for Older Adults	19,000
Cudahy	Fire Inspection/Software & Computers	22,000
Cudahy	Project Concern	5,000
Cudahy	Neighborhood Watch Signage	2,000
		58,900
Fox Point	Dunwood Center Accessibility Improvements	41,000
		41,000
Franklin	Senior Citizen Activities	16,500

Franklin	Historical Buildings Accessibility	36,440
Franklin	Home Support Services	5,160
		58,100
Glendale	Crestwood Street Improvements	45,200
		45,200
Greendale	Adult Program Services	10,500
Greendale	Community Center Bathroom ADA Improvements	28,800
		39,300
Greenfield	Program Coordinator Position	20,000
Greenfield	Library Shelving for Elderly/Handicapped	26,050
Greenfield	5151 W Layton Ave Playground Project	26,050
		72,100
Hales Corners	Library Materials for Seniors	1,500
Hales Corners	Seniors Enrichment Program	2,000
Hales Corners	Southwest Interfaith	1,500
Hales Corners	Redevelopment Planning	10,000
Hales Corners	Access/Streetscape/Pedestrian Improvements	20,900
		35,900
Oak Creek	Interfaith Program for the Elderly	2,700
Oak Creek	Salvation Army	6,000
Oak Creek	Senior Citizen Club	1,350
Oak Creek	Goodwill Industries Training Center	62,500
		72,550
River Hills	Sale of Block Grant Funds	23,400
		23,400
Shorewood	Senior Resource Center	11,500
		11,500
So Milwaukee	Human Concerns Mortgage	8,000

So Milwaukee	Human Concerns Wall Insulation	25,000
So Milwaukee	Kindcare Bathroom Remodel	18,100
So Milwaukee	Interfaith Program for the Elderly	8,000
		59,100
St. Francis	Traffic Signals at S. Kinnickinnic & E. Denton Aves.	40,000
St. Francis	Funding Services for Elderly	7,000
		47,000
West Milwaukee	Community Centre Boiler Replacement	39,000
West Milwaukee	Maintenance & Upkeep of Community Centre	9,000
		48,000
Whitefish Bay	Klode Park Playground ADA Improvements	40,000
		40,000
	TOTAL	716,902